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Legislative History – Montana Session Law

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Checklist of Bill History

- History and Final Status Sheet ☑
- Introduced Bill ☑
- Fiscal Note ☑
- Third Reading Bill ☐
- Final Version of Bill ☐

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Compiler Notes

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Thank you!

AN ACT GENERALLY REVISING AND CONSOLIDATING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; DISTINGUISHING BETWEEN DEPARTMENT AND BOARD OR PROGRAM DUTIES REGARDING LICENSURE, EXAMINATION, AND FEES; CLARIFYING THE DETERMINATION AND DISTRIBUTION OF FEES FOR LICENSURE, EXAMINATION, AND ADMINISTRATIVE COSTS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO HANDLE CERTAIN TASKS RELATED TO BOARDS, INCLUDING MONITORING OF LICENSING BOARDS' CASH BALANCES AND HIRING SERVICES FOR BOARDS; ALLOWING FOR FEE ADJUSTMENTS; REQUIRING STANDARDIZATION OF FORMS; INCLUDING DEPARTMENT PROGRAMS UNDER CERTAIN PROVISIONS APPLICABLE TO BOARDS; SETTING UNIFORM STANDARDS FOR LICENSE RENEWALS, INCLUDING RENEWAL PERIODS; REVISING CERTAIN NOTIFICATION PERIODS; REMOVING SPECIFIC BOARD OR PROGRAM REFERENCES IF DUTIES ARE ASSIGNED TO THE DEPARTMENT OR PROVIDED GENERALLY TO ALL BOARDS; REMOVING THE REQUIREMENT TO PUBLISH AN ANNUAL LIST OF SOCIAL WORKERS AND PROFESSIONAL COUNSELORS; REMOVING CERTAIN SPECIFIED LICENSING PERIODS; REMOVING THE PUBLICATION REQUIREMENT FOR OUTFITTERS' NAMES AND ADDRESSES; REPEALING CERTAIN BOARD-SPECIFIC OR PROGRAM-SPECIFIC REFERENCES TO LICENSURE, EXAMINATIONS, AND FEES; AMENDING SECTIONS 23-3-501, 23-4-105, 23-4-201, 27-12-206, 33-30-1013, 37-1-101, 37-1-104, 37-1-105, 37-1-121, 37-1-130, 37-1-131, 37-1-134, 37-1-141, 37-1-302, 37-1-306, 37-1-307, 37-2-101, 37-3-203, 37-3-211, 37-3-301, 37-3-305, 37-3-306, 37-3-307, 37-3-309, 37-3-311, 37-3-313, 37-3-341, 37-3-342, 37-3-343, 37-3-344, 37-3-347, 37-4-301, 37-4-307, 37-4-402, 37-4-406, 37-6-304, 37-7-104, 37-7-302, 37-7-321, 37-7-605, 37-7-606, 37-8-102, 37-8-202, 37-8-204, 37-9-304, 37-9-305, 37-10-302, 37-10-304, 37-11-201, 37-11-304, 37-12-201, 37-12-302, 37-13-302, 37-14-306, 37-16-202, 37-16-405, 37-17-302, 37-18-202, 37-19-401, 37-19-702, 37-19-807, 37-20-301, 37-20-302, 37-22-201, 37-22-301, 37-22-302, 37-23-101,37-23-202, 37-23-203, 37-23-206, 37-24-202, 37-24-303, 37-24-310, 37-25-201, 37-26-201, 37-26-403, 37-27-105, 37-27-210, 37-28-104, 37-28-202, 37-29-306, 37-31-203, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, 37-34-201, 37-34-305, 37-35-103, 37-40-302, 37-42-304, 37-42-308, 37-47-101, 37-47-201, 37-47-304, 37-50-304, 37-51-204, 37-51-303, 37-51-305, 37-51-603, 37-53-104, 37-60-304, 37-66-304, 37-67-303, 37-67-321, 37-68-201, 37-68-304, 37-68-305, 37-68-307, 37-68-310, 37-68-312, 37-69-304, 37-69-305, 37-69-306, 37-69-401, 37-72-102, 37-72-202, 37-72-305, 37-76-109, 50-16-201, 50-74-312, AND

80-8-207, MCA; REPEALING SECTIONS 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, AND 50-76-105, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-3-501, MCA, is amended to read:

"23-3-501. Licenses -- fees. (1) The board may issue a license to a professional or semiprofessional boxing or wrestling promoter, whether an individual or organization, for the sole purpose of conducting professional or semiprofessional matches or exhibitions.

(2) The board may issue licenses to qualified referees, managers, boxers, wrestlers, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, ~~commensurate with costs for that license,~~ as provided in 37-1-134, ~~as~~ set by the board."

Section 2. Section 23-4-105, MCA, is amended to read:

"23-4-105. Authority of board. The board shall~~, subject to 37-1-101 and 37-1-121,~~ license and regulate racing and review race meets held in this state under this chapter. All percentages withheld from amounts wagered must be deposited in the board's agency fund account. The board shall then distribute all funds collected under 23-4-202(4)(d), 23-4-204(3), and 23-4-302(3) to live race purses or for other purposes for the good of the existing horseracing industry. If the board decides to authorize new forms of racing, including new forms of simulcast racing, not currently engaged in Montana, ~~it~~ the board shall do so after holding public hearings to

determine the effects of these forms of racing on the existing saddle racing program in Montana. The board ~~should~~ shall consider both the economic and safety impacts on the existing racing and breeding industry."

Section 3. Section 23-4-201, MCA, is amended to read:

"23-4-201. Licenses. (1) ~~It is unlawful for a~~ A person ~~to~~ may not hold a race meet, including simulcast race meets under the parimutuel system, in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall file with the department an application ~~with the department which shall~~ that must set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet ~~shall~~ must be licensed and charged an annual fee set by the board~~, which shall~~ . The annual fee must be paid to the department and used for expenses of administering this chapter~~, subject to 37-1-101(6)~~. Each person holding a license under this chapter shall comply with this chapter and with the rules adopted and orders issued by the board.

(3) A license may not be issued to a person who has failed to pay the fees, taxes, or money required under this chapter.

(4) ~~Applications~~ An application to hold a race ~~meets shall~~ meet must be submitted to the department, and the board shall act on the ~~applications~~ application within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board and an independent racing association conducting a race ~~meets~~ meet comply with the requirements of the rules adopted by the board before granting a license.

(6) A racing association consisting of a local fair board or an association approved by a local fair board may apply for a license to hold a simulcast race meet in a simulcast facility.

(7) An unexpired license held by a person who violates this chapter or who fails to pay to the department the sums required under this chapter is subject to cancellation and revocation by the board."

Section 4. Section 27-12-206, MCA, is amended to read:

"27-12-206. Funding. (1) There is a pretrial review fund to be administered by the director for the purposes stated in this chapter. The fund and any income from it must be held in trust, deposited in an account, and invested and reinvested by the director. The fund may not become part of or revert to the general fund of this state but is subject to auditing by the legislative auditor. Money from the assessments levied under this section

must be deposited in the fund.

(2) For each fiscal year, beginning July 1, an annual assessment is levied on all chiropractic physicians. The amount of the assessment must be annually set by the director and equally assessed against all chiropractic physicians. A fund surplus at the end of a fiscal year that is not required for the administration of this chapter must be retained by the director and used to finance the administration of this chapter during the next fiscal year, in which event the director shall reduce the next annual assessment to an amount estimated to be necessary for the proper administration of this chapter during that fiscal year.

(3) The annual assessment must be paid on or before the date that the chiropractic physician's annual renewal fee under ~~37-12-307~~ 37-1-134 is due. An unpaid assessment bears a late charge fee of $25. The late charge fee is part of the annual assessment. The director has the same powers and duties in connection with the collection of and failure to pay the annual assessment as the department of labor and industry has under ~~37-12-307~~ 37-1-134 with regard to a chiropractic physician's annual license fee. However, nothing in this section may be interpreted to conflict with 37-1-138."

Section 5. Section 33-30-1013, MCA, is amended to read:

"33-30-1013. Coverage required for services provided by nurse specialists. A health service corporation shall provide, in group and individual insurance contracts, coverage for health services provided by a nurse specialist, as specifically listed in 37-8-202~~(5)~~, if health care services that nurse specialists are licensed to perform are covered by the contract."

Section 6. Section 37-1-101, MCA, is amended to read:

"37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department of labor and industry ~~may~~ shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, ~~taking~~ receiving and processing routine applications for licenses as defined by a board, issuing and ~~denying licenses granted by the boards,~~ renewing routine licenses as defined by a board, disciplining licensees, ~~registering,~~ setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing;

(2) standardize policies and procedures and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for ~~the~~ all meetings, hearings, and examinations

of each board or elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board ~~or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination~~;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department;

(6) assess the costs of the department to the boards and programs on an equitable basis as determined by the department;

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's ~~licensing~~ board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(e);

(9) provide notice to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner;

(10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary; and

(11) establish policies and procedures to set fees for administrative services, as provided in 37-1-134, commensurate with the cost of the services provided. Late penalty fees may be set without being commensurate with the cost of services provided."

Section 7. Section 37-1-104, MCA, is amended to read:

"37-1-104. Standardized forms. ~~It is the responsibility of the~~ The department ~~whenever possible to~~ shall adopt standardized ~~application, license, and other~~ forms and processes to be used by the boards and department programs ~~within the department~~. The standardization is to streamline processes, expedite services, reduce costs~~,~~ and waste, and ~~the use of out-of-date forms and~~ facilitate ~~automated printing and~~ computerization."

Section 8. Section 37-1-105, MCA, is amended to read:

"37-1-105. Reporting disciplinary actions against licensees. The department has the authority and shall require that all ~~licensing~~ boards and department programs ~~within the department~~ require ~~all applicants~~ each applicant for licensure or renewal to report any legal or disciplinary ~~actions~~ action against ~~them~~ the applicant that

~~relate~~ relates to the propriety of the ~~applicants'~~ applicant's practice of or ~~their~~ fitness to practice the profession or occupation for which ~~they seek~~ the applicant seeks licensure. Failure to furnish the required information, except pursuant to 37-1-138, or the filing of false information is grounds for denial or revocation of a license."

Section 9. Section 37-1-121, MCA, is amended to read:

"37-1-121. Duties of commissioner. In addition to the powers and duties under 2-15-112 and 2-15-121, the commissioner of labor and industry shall:

(1) at the request of a party, appoint an impartial hearings examiner to conduct hearings ~~before each board within the department~~ whenever any board or department program holds a contested case hearing. The hearings examiner shall conduct hearings in a proper and legal manner.

(2) establish the qualifications of and hire all personnel to perform the administrative, legal, and clerical functions of the department for the boards. Boards within the department do not have authority to establish the qualifications of, hire, or terminate personnel. The department shall consult with the boards regarding recommendations for qualifications for executive or executive director positions.

(3) approve all contracts and expenditures by boards within the department. A board within the department may not enter into a contract or expend funds without the approval of the commissioner."

Section 10. Section 37-1-130, MCA, is amended to read:

"37-1-130. Definition. As used in this part, ~~"board" means each board in this title~~ the following definitions apply:

(1) "Administrative fee" means a fee established by the department to cover the cost of administrative services as provided for in 37-1-134.

(2) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is ~~allocated~~ administratively attached to the department ~~of labor and industry~~ as provided in 2-15-121.

(3) "Board fee" means:

(a) a fee established by the board to cover program area costs as provided in 37-1-134; and

(b) any other legislatively prescribed fees specific to boards and department programs.

(4) "Department" means the department of labor and industry established in 2-15-1701.

(5) "Department program" means a program administered by the department pursuant to this title and

not affiliated with a board.

(6) "Expired license" means a license that is not reactivated within the period of 45 days to 2 years after the renewal date for the license.

(7) "Lapsed license" means a license that is not renewed by the renewal date and that may be reactivated within the first 45-day period after the renewal date for the license.

(8) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation.

(9) "Terminated license" means a license that is not renewed or reactivated within 2 years of the license lapsing."

Section 11. Section 37-1-131, MCA, is amended to read:

"37-1-131. Duties of boards -- quorum required. ~~Each~~ A quorum of each board within the department shall:

(1) set and enforce standards and rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within ~~its~~ the board's jurisdiction;

(2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within ~~its~~ the board's jurisdiction. The hearings must be conducted by a ~~hearing~~ hearings examiner when required under 37-1-121~~(1)~~.

(3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

(4) pay to the department ~~its~~ the board's pro rata share of the assessed costs of the department under 37-1-101(6);

(5) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available.

(6) A board, board panel, or subcommittee convened to conduct board business must have a majority of its members, which constitutes a quorum, present to conduct business.

(7) The board or the department program may:

(a) establish the qualifications of applicants to take the licensure examination;

(b) determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination;

(c) examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations; and

(d) require continuing education for licensure as provided in 37-1-306. If the board or department requires continuing education for continued licensure, the board or department may not audit or verify continuing education requirements as a precondition for renewing the license, certification, or registration. The board or department may conduct random audits of up to 50% of all licensees with renewed licenses for documentary verification of the continuing education requirement after the renewal period closes.

(8) A board may, at the board's discretion, request the applicant to make a personal appearance before the board for nonroutine license applications as defined by the board."

Section 12. Section 37-1-134, MCA, is amended to read:

"37-1-134. ~~Licensing boards to establish fees~~ Fees commensurate with costs. ~~All~~ Each ~~licensing boards~~ board allocated to the department shall set board fees ~~reasonably~~ related to the respective program area that are commensurate with costs for licensing, including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits. A board may set an examination fee that must be commensurate with costs. A board that issues endorsements and licenses specialties shall set respective fees commensurate with costs. Unless otherwise provided by law, ~~each board within~~ the department may establish standardized fees, including but not limited to fees for ~~program areas such as application, examination, renewal, reciprocity, late renewal, and continuing education~~ administrative services such as license verification, duplicate licenses, late penalty renewals, licensee lists, and other administrative service fees determined by the department as applicable to all boards and department programs. The department shall collect administrative fees on behalf of each board or department program and deposit the fees in the state special revenue fund in the appropriate account for each board or department program. ~~Board~~ Administrative service costs not related to a specific board or program area may be equitably distributed to board or program areas as determined by the ~~board~~ department. Each board and department program shall maintain records sufficient to support the fees charged for each program area."

Section 13. Section 37-1-141, MCA, is amended to read:

"37-1-141. ~~Nonrenewal of license for three years~~ License renewal -- lapse -- expiration -- termination. (1) The renewal date for a license must be set by department rule. The department shall provide notice prior to the renewal date.

(2) To renew a license, a licensee shall submit a completed renewal form, comply with all certification and continuing education requirements, and remit renewal fees before the end of the renewal period.

(3) A licensee may reactivate a lapsed license within 45 days after the renewal date by following the process in subsection (5) and complying with all certification and educational requirements.

(4) A licensee may reactivate an expired license within 2 years after the renewal date by following the process in subsection (5) and complying with all certification and education requirements that have accrued since the license was last granted or renewed as prescribed by board or department rule.

(5) To reactivate a lapsed license or an expired license, in addition to the respective requirements in subsections (3) and (4), a licensee shall:

(a) submit the completed renewal form;

(b) pay the late penalty fee provided for in subsection (7); and

(c) pay the current renewal fee as prescribed by the department or the board.

(6) (a) A licensee who practices with a lapsed license is not considered to be practicing without a license.

(b) A licensee who practices after a license has expired is considered to be practicing without a license.

(7) The department may assess a late penalty fee for each renewal period in which a license is not renewed. The late penalty fee need not be commensurate with the costs of assessing the fee.

(8) Unless otherwise provided by statute or rule, ~~a lapsed~~ an occupational or professional license that is not renewed within ~~3~~ 2 years of the most recent renewal date automatically terminates. The terminated license may not be ~~reinstated~~ reactivated, and a new original license must be obtained ~~by passing a qualifying examination and paying the appropriate fee~~.

(9) The department or board responsible for licensing a licensee retains jurisdiction for disciplinary purposes over the licensee for a period of 2 years after the date on which the license lapsed.

(10) This section may not be interpreted to conflict with 37-1-138."

Section 14. Section 37-1-302, MCA, is amended to read:

"37-1-302. Definitions. As used in this part, the following definitions apply:

(1) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.

(2) "Complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(3) "Department" means the department of labor and industry.

(4) "Inspection" means the periodic examination of premises, equipment, or procedures or of a practitioner by the department to determine whether the practitioner's profession or occupation is being conducted in a manner consistent with the public health, safety, and welfare.

(5) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a written complaint or other information before a board, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the board;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether a board should seek an injunction.

(6) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation~~, regardless of the specific term, such as permit, certificate, recognition, or registration, used for the permission~~.

(7) "Profession" or "occupation" means a profession or occupation regulated by a board."

Section 15. Section 37-1-306, MCA, is amended to read:

"37-1-306. Continuing education. A board or, for programs without a board, the department may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education."

Section 16. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board authority. (1) A board may:

(a) hold hearings as provided in this part;

(b) issue subpoenas requiring the attendance of witnesses or the production of documents and administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must

be relevant to the complaint~~, issued by a majority vote of board members not serving on the screening panel described in subsection (1)(e),~~ and must be signed by ~~the presiding officer~~ a member of the board. Subpoenas may be enforced as provided in 2-4-104.

(c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under this part;

~~(d) compel attendance of witnesses and the production of documents. Subpoenas may be enforced as provided in 2-4-104.~~

~~(e)~~(d) establish a screening panel ~~that determines~~ to determine whether there is reasonable cause to believe that a licensee has violated a particular statute, rule, or standard justifying disciplinary proceedings. A screening panel shall specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.

~~(f)~~(e) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding ~~its~~ the board's licensees and license applicants and regarding possible unlicensed practice.

[(3) Each board shall require a license applicant to provide the applicant's social security number as a part of the application. Each board shall keep the social security number from this source confidential, except that a board may provide the number to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 17. Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which the medical practitioner maintains an office for professional practice.

(2) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans;

(b) to affect the structure or any function of the body of humans.

(3) "Drug" has the same meaning as provided in 37-7-101.

(4) "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs~~; but the~~. The term does not include a pharmacy.

(5) "Medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, podiatry, optometry, or a nursing specialty as described in 37-8-202~~(5)~~ and in the licensed practice to administer or prescribe drugs.

(6) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.

(7) "Pharmacy" has the same meaning as provided in 37-7-101.

(8) "State" means the state of Montana or any political subdivision of the state."

Section 18. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. The board may:

(1) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair, impartial, and nondiscriminatory.

(2) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(3) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter;

(4) establish a program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental or chronic physical illness;

~~(5) select an executive secretary to be hired by the department to:~~

~~(a) provide services to the board in connection with the board's duties under this chapter;~~

~~(b) assist in prosecution and matters of license discipline under this chapter; and~~

~~(c) administer the board's affairs;~~ and

~~(6)~~(5) fund additional staff, hired by the department, to administer the provisions of this chapter, by

increasing license fees as necessary."

Section 19. Section 37-3-211, MCA, is amended to read:

"37-3-211. Executive secretary. To perform ~~the~~ services ~~provided for in 37-3-203(5)~~ to the board in connection with the board's duties under this chapter, assist in prosecution and matters of license discipline, and administer the board's affairs, the department shall hire an executive secretary ~~selected by the board~~."

Section 20. Section 37-3-301, MCA, is amended to read:

"37-3-301. License required -- kinds of certificates. (1) Before being issued a license, an applicant may not engage in the practice of medicine in this state.

(2) The department may issue four forms of certificates of licensure under the board's seal~~:~~, which include the physician's certificate, the restricted certificate, the temporary certificate, and the telemedicine certificate issued in accordance with 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349. The physician's certificate and the restricted certificate must be signed by the president, but the temporary certificate may be signed by any board member. The board shall decide which certificate to issue. These certificates must be designated as:

(a) a physician's certificate, which is subject to renewable registration in accordance with department rules;

(b) a restricted certificate;

(c) a temporary certificate, which is subject to specifications and limitations imposed by the board; and

(d) a telemedicine certificate."

Section 21. Section 37-3-305, MCA, is amended to read:

"37-3-305. Qualifications for licensure. (1) Except as provided in subsections (4) and (5), a person may not be granted a physician's license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program;

(d) has ~~had~~ submitted a completed application ~~file reviewed by a board member and, at the discretion~~

~~of the board member, has made a personal appearance before the board~~; and

(e) is able to communicate, in the opinion of the board, in the English language.

(2) The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified.

(3) A person may not be granted a temporary license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program; and

(d) is able, in the opinion of the board, to communicate in the English language.

(4) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or in the opinion of the board has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with the Montana family practice residency program; and

(c) is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state.

(5) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with a program accredited by the accreditation council for graduate medical education or the American osteopathic association;

(c) in the course of an approved rotation of the person's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state;

(d) makes application to the department on ~~a~~ an approved form ~~prescribed by the board~~; and

(e) pays a fee set by the board, as provided in 37-3-308."

Section 22. Section 37-3-306, MCA, is amended to read:

"37-3-306. Physician's certificate -- examination -- reciprocity and endorsement. (1) The board may authorize the department to issue to an applicant a physician's certificate, certificate by reciprocity, or certificate

by endorsement only on the basis of:

(a) passing an approved examination ~~given and graded by the department~~, subject to 37-1-101;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of examiners for osteopathic physicians and surgeons, incorporated, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by this board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were, in the judgment of the board, essentially equivalent to those of this state for granting a license to practice medicine, if under the scope of the license or certificate the applicant was authorized to practice medicine in the other state, territory, or country.

(2) ~~No~~ An applicant who applies for a license on the basis of an examination and fails the examination may not be granted a license based on credentials from another state, territory, or foreign country or on a certificate issued by the national board of medical examiners or successors, by the federation licensing examination committee or successors, or by the medical council of Canada or successors.

(3) The board may adopt reciprocity or endorsement requirements current with changes in standards in the practice of medicine.

(4) The board may, in the case of an applicant for admission by reciprocity or endorsement, require a written or oral examination of the applicant.

(5) The board may require that graduates of foreign medical schools pass an examination given by the education council for foreign medical graduates or successors.

(6) Holders of the degree of doctor of osteopathy granted in 1955 or before ~~will~~ may be certified only on the basis of taking and passing the examination given by the department, subject to 37-1-101. Holders of the degree of doctor of osteopathy granted after 1955 ~~will~~ must be certified in the same manner as provided ~~above~~ in this section for physicians."

Section 23. Section 37-3-307, MCA, is amended to read:

"37-3-307. Qualifications for licensure -- temporary certificate. (1) The board may authorize the department to issue to an applicant a temporary certificate to practice medicine on the basis of:

(a) passing an examination ~~given and graded by the department, subject to 37-1-101~~ prescribed by the board;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of osteopathic medical examiners or successors, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by the board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were essentially equivalent, in the judgment of the board, to those of this state at the time for granting a license to practice medicine; and

(d) being a graduate of an approved medical school who has completed 1 year of internship or ~~its~~ the equivalent and being of good moral character and good conduct.

(2) The board may require that graduates of foreign medical schools pass the examination given by the education council for foreign medical graduates or successors.

(3) A temporary certificate may be issued to a physician employed by a public institution who is practicing under the direction of a licensed physician. The board may authorize the department to issue a temporary certificate subject to terms of probation or other conditions or limitations set by the board or may refuse a temporary certificate to a person who has committed unprofessional conduct. The issuance of a temporary certificate does not impose any future obligation or duty on the part of the board to grant full licensure or to renew or extend the temporary certificate. The board may, in the case of an applicant for a temporary certificate, require a written, oral, or practical examination of the applicant."

Section 24. Section 37-3-309, MCA, is amended to read:

"37-3-309. Application for license. ~~(1)~~ A person desiring a license to practice medicine shall ~~make application~~ apply to the department~~, verified by oath and in a form prescribed by the board~~ on an approved form.

The application must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by this chapter apart from an examination required by the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the qualifications and whether the applicant has committed unprofessional conduct. The applicant shall provide necessary authorizations for the release of records and information pertinent to the department's inquiry.

~~(2) An applicant for a license on the basis of an examination shall file the application at least 60 days prior to the announced date of the examination. If the applicant is not at the time of filing the application a graduate of but is then in attendance at an approved medical school, the applicant shall submit to the department, instead of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of the approved medical school that the applicant will receive a diploma at the end of the then-current school term. The applicant may not be granted a certificate until the applicant has filed with the department a diploma or other acceptable evidence of graduation from the approved medical school and has complied with the requirements of subsection (1). A license may not be issued until the applicant has satisfied the board that the applicant has completed at least 1 year of an approved internship or its equivalent and has otherwise met the requirements for the issuance of a license under this chapter.~~"

Section 25. Section 37-3-311, MCA, is amended to read:

"37-3-311. Examination. ~~(1) Examinations for a license to practice medicine shall be held not less than twice each year, at a time and place specified by the board. The examination shall be conducted in the English language and shall be sufficiently comprehensive in medicine to adequately test the applicant's professional competence and ability. The examination shall be fair and impartial. Examination papers shall be identified by both the name of the applicant and a number assigned by the department. The board may require the department to use the examination prepared by the national board of medical examiners or the examination prepared by the federation licensing examination committee or successors.~~

~~(2) An applicant must meet the requirements of 37-3-305 prior to taking a scheduled examination.~~

~~(3)~~(1) An applicant who is a graduate of a foreign medical school ~~shall~~ is required to have passed an examination given by the education council for foreign medical graduates or its successor.

~~(4)~~(2) The board may in its discretion require the department to give, subject to 37-1-101, an oral or practical examination to test the applicant's qualifications for licensure and grant appropriate credit for ~~this~~ the

examination.

~~(5)~~(3) The board may use other Montana physicians to assist in preparing the examination.

~~(6)~~(4) A person may not be granted a license to practice medicine if ~~he~~ the person fails to attain a passing grade as set by the board. If an applicant fails to meet the minimum grade requirements ~~in his~~ on the first examination, ~~he~~ the applicant may be reexamined not more than two additional times on each of the component parts of the examination. ~~An examination fee shall be charged for each additional examination.~~ If an applicant is prevented through no fault of ~~his own~~ the applicant's from taking a scheduled examination, ~~he~~ the applicant may, within 2 years, be examined without submitting a new application."

Section 26. Section 37-3-313, MCA, is amended to read:

"37-3-313. ~~Renewal fees -- failure to pay -- limiting~~ Limiting authority to impose renewal fees. ~~(1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine in this state shall pay to the department a renewal fee as prescribed by the board.~~

~~(2) The payments for renewal must be made prior to the expiration date of the license, as set forth in a department rule. The department shall mail renewal notices before the renewal is due.~~

~~(3) Except as provided in 37-1-138, in case of default in the payment of the renewal fee by a person licensed to practice medicine who is actively practicing medicine in this state, the underlying license to practice medicine may be considered lapsed by the board.~~

~~(4)~~ A license or renewal fee may not be imposed on a licensee under this chapter by a municipality or any other subdivision of the state."

Section 27. Section 37-3-341, MCA, is amended to read:

"37-3-341. Legislative findings. The Montana legislature previously found, in 37-3-101, that the practice of medicine in Montana is a privilege, not a natural right, and that the regulation of the practice of medicine is necessary to ensure the health, happiness, safety, and welfare of the people of Montana. The legislature now finds that because of technological advances and changing patterns of medical practice, medicine is increasingly being practiced by electronic means across state lines. Although access to technological advances is in the public interest, the legislature also finds that regulation of the practice of medicine across state lines is necessary to protect the public against the unprofessional, improper, unauthorized, and unqualified practice of medicine. Accordingly, the legislature finds that physicians outside the boundaries of Montana who ~~enter the state~~ by

electronic or other technological means ~~to~~ practice medicine for compensation on patients inside Montana are seeking the benefit and protection of the laws of Montana and are subject to the licensure and regulatory requirements provided in 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349."

Section 28. Section 37-3-342, MCA, is amended to read:

"37-3-342. Definition -- scope of practice allowed by telemedicine certificate. (1) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, "telemedicine" means the practice of medicine, as defined in 37-3-102, by a physician located outside the state who performs an evaluative or therapeutic act relating to the treatment or correction of a patient's physical or mental condition, ailment, disease, injury, or infirmity and who transmits that evaluative or therapeutic act into Montana through any means, method, device, or instrumentality under the following conditions:

(a) The information or opinion is provided for compensation or with the expectation of compensation.

(b) The physician does not limit the physician's services to an occasional case.

(c) The physician has an established or regularly used connection with the state, including but not limited to:

(i) an office or another place for the reception of a transmission from the physician;

(ii) a contractual relationship with a person or entity in Montana related to the physician's practice of medicine; or

(iii) privileges in a Montana hospital or another Montana health care facility, as defined in 50-5-101.

(2) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, telemedicine does not mean:

(a) an act or practice that is exempt from licensure under 37-3-103;

(b) an informal consultation, made without compensation or expectation of compensation, between an out-of-state physician and a physician or other health care provider located in Montana;

(c) the transfer of patient records, independent of any other medical service and without compensation;

(d) communication about a Montana patient with the patient's physician or other health care provider who practices in Montana, in lieu of direct communication with the Montana patient or the patient's legal representative;

(e) diagnosis of a medical condition by a physician located outside the state, based upon an x-ray, cardiogram, pap smear, or other specimen sent for evaluation to the physician outside the state by a health care

provider in Montana; or

(f) a communication from a physician located outside Montana to a patient in Montana in collaboration with a physician or other health care provider licensed to practice medicine in Montana."

Section 29. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without certificate -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine certificate issued pursuant to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine certificate authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine certificate pursuant to 37-3-345(2).

(3) A telemedicine certificate authorizes an out-of-state physician to practice only telemedicine. A telemedicine certificate does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A physician who practices telemedicine in this state without a telemedicine certificate issued pursuant to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that certificate, in violation of the scope of practice allowed by the certificate, or without a physician's certificate of licensure issued pursuant to 37-3-301(2)(a), is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 30. Section 37-3-344, MCA, is amended to read:

"37-3-344. Application for telemedicine certificate. (1) A person desiring a telemedicine certificate shall apply to the department and verify the application by oath, in a form prescribed by the board.

(2) The application must be accompanied by:

(a) a certificate fee prescribed by board rule; and

(b) documents required by the board that establish that the applicant possesses the qualifications prescribed by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the requisite qualifications.

(3) The application must include a clear statement that the applicant consents to the jurisdiction of the state as specified in 37-3-349.

(4) The applicant shall provide to the board authorizations necessary for the release of records and other information required by the board."

Section 31. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of certificate -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine certificate if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a certificate required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) fails to pay a required fee;

(c) does not possess the qualifications or character required by this chapter; or

(d) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine certificate provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 32. Section 37-4-301, MCA, is amended to read:

"37-4-301. ~~Examination -- qualifications~~ Qualifications -- fees ~~-- certification~~. ~~(1) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. It may also include, at the board's discretion, an oral interview with the board, which may include questions pertaining to the practice of dentistry. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence to be administered at times and places approved by the board. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(2) Acceptance by the board of a written and practical examination must be conditioned on evidence that the examination is sufficiently thorough to test the fitness of the applicant to practice dentistry. The examination must include, written in the English language, questions on anatomy, histology, physiology, chemistry, pharmacology and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, orthodontics, periodontics and endodontics, and any additional subjects~~

~~pertaining to dental service.~~

~~(3) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(4)~~ Applicants for licensure shall submit an application~~, which~~ that must include, when required:

~~(a)~~(1) certification of successful completion of the national board ~~written~~ examination;

~~(b)~~(2) certification of successful completion of a regional board ~~practical~~ examination;

~~(c)~~(3) three affidavits of good moral character;

~~(d)~~(4) a certificate of graduation from a board-approved dental school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(5) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(5) Applicants may not take the jurisprudence examination or the oral interview without first having completed and passed all other parts of the examination.~~

~~(6) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination upon payment of a fee commensurate with costs and set by the board.~~

~~(7) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 33. Section 37-4-307, MCA, is amended to read:

"37-4-307. ~~Renewal fee -- default~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dentist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal fees must be given to each dentist registered in this state by the department.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required by the department if the renewal fee is not paid in a timely manner.~~

~~(3) (a) Except as provided in 37-1-138, in case of default in payment of the renewal fee by a licensee, the license must be forfeited by the licensee. The board shall give the licensee 30 days' notice of its proposed~~

~~forfeiture action. The notice must be sent by certified letter addressed to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the time set for forfeiture, the license may not be forfeited.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each renewal period that they were unpaid, plus a late penalty fee for each renewal period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dentist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dentist licensed under this chapter."

Section 34. Section 37-4-402, MCA, is amended to read:

"37-4-402. License -- examination. (1) The department may issue licenses for the practice of dental hygiene to qualified applicants to be known as dental hygienists.

(2) Except as provided by rules adopted under 37-1-319, a person may not engage in the practice of dental hygiene or practice as a dental hygienist in this state until the person has passed an examination approved by the board under rules ~~it considers proper~~ adopted by the board and has been issued a license by the department.

~~(3) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(4) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(5)~~(3) ~~Applicants~~ An applicant for licensure shall submit an application~~, which~~ that must include, when required:

(a) certification of successful completion of the national board ~~written~~ written examination;

(b) certification of successful completion of a regional board ~~practical~~ practical examination;

(c) two affidavits of good moral character;

(d) a certificate of graduation from a board-approved dental hygiene school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(e) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(6) Applicants may not take the jurisprudence examination without first having completed and passed all other parts of the examination.~~

~~(7) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination on payment of a fee commensurate with costs and set by the board.~~

~~(8) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 35. Section 37-4-406, MCA, is amended to read:

"37-4-406. ~~Renewal fee -- default -- forfeiture of license~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dental hygienist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required if the renewal fee is not paid in a timely manner.~~

~~(3) Except as provided in 37-1-138, in case of default in payment of the renewal fee by any licensee, the licensee shall forfeit the license.~~

~~(a) The board shall give the licensee 30 days' notice of its proposed forfeiture action. The notice must~~

~~be sent by certified mail to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) The payment of the renewal fee on or before the time set for forfeiture, with a reasonable late fee set by the board, excuses the default.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each period that they were unpaid, plus a late penalty for each period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dental hygiene since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dental hygienist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5) The board may, after a hearing, revoke or suspend the license of a dental hygienist for violating this chapter.~~

~~(6)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dental hygienist licensed under this chapter."

Section 36. Section 37-6-304, MCA, is amended to read:

"37-6-304. Designations on license -- recording ~~-- renewal -- display~~. (1) A license issued under this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

(2) ~~Licenses must be recorded by the~~ The department shall record licenses the same as other medical licenses.

~~(3) Licenses must be renewed on a date set by department rule.~~

~~(4) A license renewal fee set by the board must be paid on a date set by department rule.~~

~~(5) The department shall mail renewal notices prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~"

Section 37. Section 37-7-104, MCA, is amended to read:

"37-7-104. Qualifications of employee hired to assist board. A person hired by the department to enter and inspect an establishment under this chapter~~; to examine the books of a manufacturer, druggist, storekeeper, wholesaler, pharmacist, or intern; to assist in a prosecution under this chapter; and to assist the board in supervising internships, reciprocity agreements, professional correspondence, and examinations shall~~ must be:

(1) a citizen of the United States and a resident of this state; and

(2) a pharmacist registered under this chapter~~, with at least 5 years of practical experience~~."

Section 38. Section 37-7-302, MCA, is amended to read:

"37-7-302. ~~Examination -- qualifications -- fees -- reciprocity~~ Qualifications -- display of license. ~~(1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.~~

~~(2) The fee for an examination must be set by the board at a figure commensurate with costs. The fee may in the discretion of the board be returned to applicants not taking the examination.~~

~~(3)~~(1) To be entitled to examination as a pharmacist, the applicant must be of good moral character and must have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana-Missoula or ~~from~~ have received an accredited pharmacy degree ~~program~~ that has been approved by the board. However, an applicant may not receive a registered pharmacist's license until the applicant has complied with the internship requirements established by the board.

~~(4)~~(2) Each person licensed and registered under this chapter must receive from the department an appropriate ~~certificate~~ license ~~attesting the fact, which~~. The license must be conspicuously displayed at all times in the place of business."

Section 39. Section 37-7-321, MCA, is amended to read:

"37-7-321. Certified pharmacy license -- display. ~~(1)~~ The board shall provide for the original certification and renewal by the board of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board, ~~and~~ on application on a prescribed form ~~prescribed by the board,~~ and on the payment of an original certification fee prescribed by the board, the board shall issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to pharmacies operated by registered

pharmacists qualified under this chapter. ~~The renewal fee for a pharmacy must be set by the board. Any default in the payment of the renewal fee after the date the fee is due increases the renewal fee as prescribed by the board.~~ The license must be displayed in a conspicuous place in the pharmacy for which it is issued ~~and expires on the date set by board rule~~. ~~It is unlawful for a~~ A person ~~to~~ may not ~~conduct~~ operate a pharmacy, use the word "pharmacy" to identify the business, or use the word "pharmacy" in advertising unless a license has been issued and is in effect.

~~(2) The board may impose discipline or deny or refuse to renew a pharmacy license for reasons specified in and subject to conditions specified in Title 37, chapter 1.~~"

Section 40. Section 37-7-605, MCA, is amended to read:

"37-7-605. Out-of-state wholesale drug distributor licensing requirements. (1) ~~It is unlawful for an~~ An out-of-state wholesale drug distributor ~~to~~ may not conduct business in this state without first obtaining a license from the board and paying the license fee established by the board.

(2) Application for a license under this section must be made on ~~a~~ an approved form ~~furnished by the board~~.

(3) The issuance of a license may not affect tax liability imposed by the department of revenue on any out-of-state wholesale drug distributor.

(4) A person acting as principal or agent for an out-of-state wholesale drug distributor may not sell or distribute drugs in this state unless the distributor has obtained a license."

Section 41. Section 37-7-606, MCA, is amended to read:

"37-7-606. ~~Issuance of licenses~~ Licenses. The license for wholesale drug distributors is effective during the period specified by department rule. ~~An application for renewal of a license must be mailed to each licensee at least 30 days prior to the renewal date, and if the renewal application and the fee are not mailed by the renewal date, the license is void upon its expiration date.~~"

Section 42. Section 37-8-102, MCA, is amended to read:

"37-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advanced practice registered nurse" means a registered professional nurse who has completed

educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202~~(5)(a)~~.

(2) "Board" means the board of nursing provided for in 2-15-1734.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Medication aide" means a person who in an assisted living facility uses standardized procedures in the administration of drugs, as defined in 37-7-101, ~~in an assisted living facility~~ that are prescribed by a physician, an advanced practice registered nurse with prescriptive authority, a dentist, an osteopath, or a podiatrist authorized by state law to prescribe drugs.

(5) "Nursing education program" means any board-approved school that prepares graduates for initial licensure under this chapter. Nursing education programs for:

(a) professional nursing may be a department, school, division, or other administrative unit in a junior college, college, or university;

(b) practical nursing may be a department, school, division, or other administrative unit in a vocational-technical institution or junior college.

(6) "Practice of nursing" embraces the practice of practical nursing and the practice of professional nursing.

(7) (a) "Practice of practical nursing" means the performance of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. ~~Practical~~ The practice of practical nursing ~~practice~~ uses standardized procedures in the observation and care of the ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the administration of medications and treatments prescribed by a physician, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

(b) These services may include a charge-nurse capacity in a long-term care facility that provides skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a registered nurse.

(8) "Practice of professional nursing" means the performance of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis,

planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention, casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (8):

(a) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;

(b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

Section 43. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties. (1) The board shall:

(a) meet annually and ~~shall~~ elect from among the ~~nine~~ members a president and a secretary~~. The board shall~~;

(b) hold other meetings when necessary to transact its business~~. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board.~~

~~(2) The board may make rules necessary to administer this chapter. The board shall~~;

(c) prescribe standards for schools preparing persons for registration and licensure under this chapter~~. It shall~~;

(d) provide for surveys of schools at times ~~it~~ the board considers necessary~~. It shall~~;

(e) approve programs that meet the requirements of this chapter and of the board~~. The department shall, subject to 37-1-101, examine and issue to and renew licenses of qualified applicants. The board shall~~;

(f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list~~. It shall~~;

(g) cause the prosecution of persons violating this chapter ~~and~~. The board may incur necessary expenses for prosecutions.

~~(3) The board may adopt and the department shall publish forms for use by applicants and others, including license, certificate, and identity forms and other appropriate forms and publications convenient for the~~

~~proper administration of this chapter. The board may fix reasonable fees for incidental services, within the subject matter delegated by this chapter.~~

(h) adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.

(i) establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide for assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

~~(4)~~(2) The board may:

(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses~~.~~;

~~(5) (a) The board may~~

(b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or ~~its~~ the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

~~(b) The board shall adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.~~

~~(6) The board may~~

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

~~(7) The board shall establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug~~

~~or substance. The program must provide assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the license fee provided for in 37-8-431 commensurate with the cost of the program.~~

~~(8) The board may~~

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons~~.~~;

(e) adopt rules necessary to administer this chapter; and

~~(9)~~(f) ~~The board may~~ fund additional staff, hired by the department, to administer the provisions of this chapter."

Section 44. Section 37-8-204, MCA, is amended to read:

"37-8-204. Executive director. (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:

~~(1)~~(a) prescribing curricula and standards for nursing schools and making surveys of and approving schools and courses;

~~(2)~~(b) evaluating and approving courses for affiliation of student nurses; and

~~(3)~~(c) reviewing qualifications of applicants for licensure.

(2) The department shall hire as the executive director an individual who:

(a) is a graduate of an approved school of nursing and who has at least a master's degree with postgraduate courses in nursing;

(b) is licensed as a registered professional nurse in Montana; and

(c) has experience in teaching or administration in an approved school of nursing and who has completed at least 3 years in the clinical practice of nursing."

Section 45. Section 37-9-304, MCA, is amended to read:

"37-9-304. Fees. (1) Each person who applies for licensure~~, whether by waiver, examination, or reciprocation,~~ shall pay a fee prescribed by the board at the time of application.

(2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed by the board. ~~A license expires on a date set by department rule and must be renewed upon timely payment of the license fee.~~

~~(3) The fee for issuing a duplicate license must be fixed by the board.~~"

Section 46. Section 37-9-305, MCA, is amended to read:

"37-9-305. ~~Renewal of registration and license~~ License -- grounds for discipline. ~~Each holder of a nursing home administrator's registration and license shall renew it by payment of the required fee for the next subsequent period prior to the expiration date of the currently valid registration and license, except as may be otherwise provided in 37-1-138. Renewals of registrations or licenses~~ A license must be granted as a matter of course. However, if the board finds, after notice and hearing, that the applicant has acted or failed to act in ~~a manner or under circumstances that would constitute grounds for discipline, it may not issue the renewal~~ accordance with this chapter, the board may find grounds for discipline."

Section 47. Section 37-10-302, MCA, is amended to read:

"37-10-302. ~~Examination -- qualifications~~ Qualifications -- application ~~-- issuance of certificate~~. (1) The board shall adopt rules relative to and governing the qualifications of applicants for certificates of registration as optometrists. ~~If the applicant does not meet the requirements of the rules, the applicant is not eligible to take an examination to practice optometry in this state. If the applicant meets the requirements of the rules, the applicant must pass an examination given by the national board of examiners in optometry on behalf of the department, subject to 37-1-101. Examinations must be practical in character and designed to ascertain the applicant's fitness to practice the profession of optometry and must be conducted in the English language. The department shall publish and distribute the examination requirements for a certificate to practice optometry in this state. The board may accept the grades an applicant has received in the written examinations given by the national board of examiners in optometry.~~

(2) A person is not eligible to receive a certificate of registration unless that person is 18 years of age or older and of good moral character.

(3) A person is not eligible to receive a certificate of registration unless that person has certificates of graduation from an accredited high school and from a school of optometry in which the practice and science of optometry is taught in a course of study covering 8 semesters or 4 years of actual attendance and that is accredited by the international association of boards of examiners in optometry.

(4) A person desiring a certificate of registration shall file ~~an~~ a completed application~~, in the manner prescribed by the board,~~ on a form provided by the department and pay a fee prescribed by the board.

~~(5) A person who successfully passes the examination administered by the national board of examiners in optometry and who has met the requirements for qualification as an optometrist must be registered in a register~~

~~kept by the department and, on the payment of a fee prescribed by the board, must receive a certificate of registration signed by the members of the board.~~"

Section 48. Section 37-10-304, MCA, is amended to read:

"37-10-304. Course in use of diagnostic and therapeutic drugs required. (1) (a) In addition to the requirements of 37-10-302, each person desiring to commence the practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners with consultation and approval by the board of optometrists with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions.

(b) A person presently licensed to practice optometry who wishes to employ diagnostic agents ~~must~~ shall satisfactorily complete a course referred to in subsection (1)(a) and ~~must~~ shall pass an examination ~~as provided in subsection (1)(d)~~.

(c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course must also be approved by the board.~~

~~(d) The board shall provide for an examination in competency in the use of diagnostic drugs and shall issue a certificate to those applicants who pass the examination.~~

(2) (a) Each person desiring to ~~commence the~~ practice ~~of~~ optometry shall:

(i) pass an examination, of the ~~international~~ association of regulatory boards ~~of examiners in~~ of optometry, on the diagnosis, treatment, and management of ocular disease; or

(ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular diseases. The course and examination must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course and examination must also be approved by the board.~~

(b) A person presently licensed to practice optometry who wishes to employ therapeutic pharmaceutical agents must meet the requirements of subsection (2)(a).

~~(c) The board shall:~~

~~(i) provide for an examination in competency in the diagnosis, treatment, and management of therapeutic~~

~~pharmaceutical agents; and~~

~~(ii) issue a certificate to an applicant who passes the examination.~~"

Section 49. Section 37-11-201, MCA, is amended to read:

"37-11-201. General powers -- rulemaking ~~power -- records~~. ~~(1)~~ The board may:

~~(a)~~(1) adopt rules to ~~carry~~ implement this chapter ~~into effect~~;

~~(b) grant, suspend, and revoke licenses;~~

~~(c)~~(2) issue subpoenas requiring the attendance of witnesses or the production of books and papers; and

~~(d)~~(3) take any other disciplinary action necessary to protect the public.

~~(2) The board shall:~~

~~(a) examine applicants for licenses at reasonable places and times determined by the board;~~

~~(b) review the qualifications of applicants who are approved for examination for licensure;~~

~~(c) conduct written or computerized examinations that measure the qualifications of individual applicants along with any oral or practical examinations when determined by the board to be appropriate; and~~

~~(d) adopt rules to establish continuing education requirements of at least 20 hours biennially for license renewal for physical therapists and assistants, subject to the provisions of 37-1-138.~~

~~(3) The department shall keep a record of the board's proceedings under this chapter and a register of persons licensed under it. The register must show the name of every licensed physical therapist and licensed assistant, the therapist's or assistant's last-known place of business and last-known place of residence, and the date of issue and the number of every license and certificate issued to a licensed physical therapist or licensed assistant.~~

~~(4) The department shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every person licensed to practice medicine and surgery in the state. An interested person in the state is entitled to obtain a copy of the list on application to the department and payment of an amount not in excess of the cost of the list.~~

~~(5) The department may change addresses and surnames on the licensee's records only on the specific written request by the individual licensee.~~"

Section 50. Section 37-11-304, MCA, is amended to read:

"37-11-304. Application for examination ~~-- fee~~. ~~(1)~~ A person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to the department ~~in writing,~~ on a form furnished by the department. The person shall~~:~~

~~(a)~~ provide evidence ~~under oath~~, satisfactory to the board, of having the qualifications preliminary to the examination required by 37-11-303~~; and~~

~~(b) pay to the department at the time of filing the application a fee established by the board by rule. The fee must be commensurate with the cost of the examination and its administration and must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).~~

~~(2) Anyone failing to pass the required examination on the first attempt is entitled to take a second examination and, if the second examination is failed, to take a third examination. A person who fails the third examination is required to successfully complete additional education as required by the board before retaking the examination~~."

Section 51. Section 37-12-201, MCA, is amended to read:

"37-12-201. Organization of board ~~-- meetings~~ -- powers and duties. ~~(1)~~ The board shall:

(1) elect annually a president, vice president, and secretary-treasurer from its membership~~.~~;

~~(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates.~~

~~(3) The board shall:~~

~~(a)~~(2) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

~~(b) adopt a seal that must be affixed to licenses issued;~~

~~(c)~~(3) make a schedule of minimum educational requirements~~, which~~ that are without prejudice, partiality, or discrimination~~,~~ as to the different schools of chiropractic;

~~(d)~~(4) adopt rules necessary for the implementation, administration, continuation, and enforcement of this chapter. The rules must address but are not limited to license applications, ~~form and~~ the display of ~~license~~ licenses, ~~license examination format, criteria for and grading of examinations, disciplinary standards for licensees,~~ and the registration of interns and preceptors.

~~(e)~~(5) make determinations of the qualifications of applicants under this chapter; and

~~(f) administer the examination for licensure under this chapter;~~

~~(g) establish and collect fees, fines, and charges as provided in this chapter;~~

~~(h) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and~~

~~(i)~~(6) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified evaluator for purposes of 39-71-711.

~~(4) The department shall keep a record of the proceedings of the board, which must at all times be open to public inspection.~~"

Section 52. Section 37-12-302, MCA, is amended to read:

"37-12-302. Applications -- qualifications -- fees. (1) A person wishing to practice chiropractic in this state shall ~~make application~~ apply to the department~~,~~ on ~~the~~ a department form ~~and in the manner prescribed by the board~~. Each applicant must be a graduate of ~~or expect to graduate within 90 days prior to the next licensing examination administered by the board from~~ a college of chiropractic approved by the board~~, in which the applicant has attended a course of study of 4 school years of not less than 9 months each~~. The applicant shall present evidence showing proof of a bachelor's degree from an accredited college or university. ~~Application must be made in writing, must be sworn to by an officer authorized to administer oaths, and must recite the history of applicant's educational qualifications, how long the applicant has studied chiropractic, of what school or college the applicant is a graduate, and the length of time the applicant has been engaged in practice.~~ The application must be accompanied with copies of diplomas and certificates and satisfactory evidence of good character and reputation.

(2) The applicant shall pay to the department a license fee prescribed by the board. ~~A fee must also be paid for a subsequent examination and application.~~

(3) A person who is licensed in another state or who previously graduated from or was enrolled in a chiropractic college accredited by the council on chiropractic education on or before October 1, 1995, is exempt from the bachelor's degree requirement."

Section 53. Section 37-13-302, MCA, is amended to read:

"37-13-302. Application for licensure -- fee -- qualifications. (1) Each person desiring to practice acupuncture in this state shall ~~make application~~ apply to the board for licensure ~~with the secretary of the board, upon the forms and in the manner prescribed by the board~~. A fee prescribed by the board ~~shall~~ must accompany

the application.

(2) ~~A person making application~~ An applicant shall furnish to the board evidence that ~~he~~ the applicant is:

(a) at least 18 years of age;

(b) of good moral character~~,~~ as determined by the board;

(c) a graduate of ~~an approved~~ a school of acupuncture that is approved by the national accreditation commission for schools and colleges of acupuncture and oriental medicine and offers a course of at least 1,000 hours of entry-level training in recognized branches of acupuncture or an equivalent curriculum approved by the board; and

(d) has passed an examination ~~prepared and administered by the board or an examination~~ prepared and administered by the national commission for the certification of acupuncturists or its successor."

Section 54. Section 37-14-306, MCA, is amended to read:

"37-14-306. Permits. (1) The board may issue a permit to an applicant not qualifying for the issuance of a license under the provisions of this chapter but who has demonstrated~~,~~ to the satisfaction of the board~~,~~ the capability of performing high-quality x-ray procedures without endangering public health and safety. An applicant ~~must be required to~~ shall demonstrate this capability by completion of formal classroom training that meets the standards established by rule and by means of examination. Permits issued under provisions of ~~this section and~~ 37-14-305 ~~shall~~ and this section must specify x-ray procedures, defined and established by rule, that may be performed by the holder. Permits ~~shall be~~ are valid for a period not to exceed 12 months but may be renewed under the provisions established by rule.

~~(2) Examinations for the issuance of a permit must include a written portion and may also include practical and oral portions as established by the board. The board shall provide applicants for permits the opportunity for examination at intervals not to exceed 6 months. A nonrefundable examination fee, established by the board, must be submitted prior to examination for a permit. An applicant failing the examination must be charged a nonrefundable examination fee for any subsequent examination. An applicant failing any subsequent examination shall meet any additional eligibility requirements established by rule for reexamination.~~

~~(3)~~(2) ~~Applicants~~ An applicant meeting minimum requirements for licensure ~~shall~~ must be issued a temporary permit to work as a radiologic technologist. This temporary permit ~~shall expire~~ expires 15 days after the date of first opportunity for examination.

~~(4)~~(3) The board shall issue temporary permits to unlicensed persons to perform x-ray procedures when adequate evidence is provided to the board that ~~such~~ a temporary permit is necessary because of a regional hardship or emergency condition and that ~~such person~~ the prospective recipient of a temporary permit is capable of performing x-ray procedures without endangering public health and safety. Temporary permits may not exceed 12 months in duration but may be renewed by reestablishing~~,~~ to the board's satisfaction~~,~~ evidence of continued regional hardship or emergency conditions. The required adequate evidence of regional hardship, emergency conditions, and capability to perform x-ray procedures without endangering public health and safety must be established by rule.

~~(5)~~(4) Each applicant for a permit must:

(a) be of good moral character;

(b) be at least 18 years of age; and

(c) not be addicted to intemperate use of alcohol or narcotic drugs."

Section 55. Section 37-16-202, MCA, is amended to read:

"37-16-202. Powers and duties. The powers and duties of the board are to:

(1) license persons who apply and are qualified to practice the fitting of hearing aids;

(2) establish a procedure to act as a grievance board to initiate or receive, investigate, and mediate complaints from any source concerning the activities of persons licensed under this chapter or their agents, whether licensed or not;

~~(3) suspend or revoke licenses under this chapter;~~

~~(4) designate the time and place for examining applicants for license and supervise and administer the examination;~~

~~(5)~~(3) adopt rules necessary to carry out this chapter;

~~(6)~~(4) require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons who practice or engage in the business of fitting or selling hearing aids;

~~(7) prepare examinations required by the chapter;~~

~~(8)~~(5) initiate legal action to enjoin from operation a person engaged in the sale, dispensing, or fitting of hearing aids in this state that is not licensed under this chapter;

~~(9)~~(6) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411. Rules adopted by the board may include but are

not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411.

~~(10)~~(7) establish and adopt minimum requirements for the form of bills of sale and receipts."

Section 56. Section 37-16-405, MCA, is amended to read:

"37-16-405. Trainee license. (1) An applicant who fulfills the requirements of 37-16-402 and who has not previously applied to take ~~the~~ a practical examination ~~under 37-16-403~~ may apply to the board for a trainee license.

(2) On receiving an application under subsection (1), accompanied by a fee fixed by the board and ~~commensurate with the cost of administering the license and related functions of the board and~~ verification that the applicant has passed the written portion of the examination with a passing score as determined by board rule, the board shall issue a trainee license that entitles the applicant to engage in a 180-day training period during which the applicant:

(a) is required to pass the practical examination administered by the board before being issued a hearing aid dispenser's license; and

(b) shall work under the direct supervision of the sponsoring licensed hearing aid dispenser. During this time the applicant may do the testing necessary for proper selection and fitting of hearing aids and related devices and make necessary impressions. However, the delivery and final fitting of the hearing aid and related devices must be made by the trainee and the supervisor.

(3) The training period must consist of a continuous 180-day term. Any break in training requires application for another trainee license under rules that the board may prescribe.

(4) A trainee license may not be issued unless the board has on file an unrevoked statement from a qualified licensed hearing aid dispenser accepting responsibility for the trainee. Every licensed hearing aid dispenser supervising a trainee license holder shall submit a report every 90 days of the trainee's activities and training assignments, on forms furnished by the board. The supervisor is responsible for all hearing aid fittings of the trainee. A supervisor may terminate any responsibilities to the trainee by mailing by certified mail written notice to the board and the trainee.

(5) ~~(a)~~ If a person who holds a trainee license takes and fails to pass the practical examination during the training period, the board may authorize the department to renew the trainee license for a period of 180 days, during which the provisions of subsection (2)(b) apply. ~~In no event may more~~ More than one renewal ~~be~~ is not

permitted.

~~(b) The fee for renewal must be set by the board commensurate with the cost of administering the license and related functions of the board.~~

(6) A person licensed as an audiologist under the provisions of Title 37, chapter 15, or a person practicing pursuant to 37-1-305 is exempt from the 180-day training period but is required to pass the examinations prescribed in this chapter.

(7) A licensed hearing aid dispenser who sponsors a trainee is directly responsible and accountable under the disciplinary authority of the board for the conduct of the trainee as if the conduct were the licensee's own.

(8) For the purposes of this section, "direct supervision" means the direct and regular observation and instruction of a trainee by a licensed hearing aid dispenser who is available at the same location for prompt consultation and treatment."

Section 57. Section 37-17-302, MCA, is amended to read:

"37-17-302. ~~Application -- qualifications~~ Qualifications. ~~(1) Application for examination for licensure as a psychologist must be made on forms prescribed by the board.~~

~~(2)~~ The board shall license as a psychologist any person who pays the prescribed fee, passes the prescribed examination, and submits evidence ~~by oath~~ that the person:

~~(a)~~(1) is 18 years of age or older;

~~(b)~~(2) is of good moral character;

~~(c) (i)~~(3) (a) has received a doctoral degree in clinical psychology from an accredited college or university having an appropriate graduate program approved by the American psychological association;

~~(ii)~~(b) has received a doctoral degree in psychology from an accredited college or university not approved by the American psychological association and has successfully completed a formal graduate retraining program in clinical psychology approved by the American psychological association; or

~~(iii)~~(c) has received a doctoral degree in psychology from an accredited college or university and has completed a course of studies that meets minimum standards specified in rules by the board; and

~~(d)~~(4) has completed at the time of application a minimum of 2 years of supervised experience in the practice of psychology. One year of this experience must be postdoctoral but may not include more than 6 months of supervised research, teaching, or a combination of both."

Section 58. Section 37-18-202, MCA, is amended to read:

"37-18-202. ~~Powers of board and department -- examinations~~ Rulemaking. ~~(1)~~ The board may adopt rules ~~and orders~~ necessary ~~for the performance of its duties, including but not limited to:~~

~~(a) prescribing of forms for application for examination and license;~~

~~(b) preparation of examinations; and~~

~~(c) clarifying the use of support personnel and the provision of emergency services.~~

~~(2) The department shall, subject to 37-1-101, supervise the examination of applicants for license to practice veterinary medicine, obtain the services of professional examination agencies instead of its own preparation of examinations, and grant and revoke licenses~~ to carry out the purposes of this chapter."

Section 59. Section 37-19-401, MCA, is amended to read:

"37-19-401. License required -- display of license ~~-- renewal -- penalty for late renewal~~. ~~(1)~~ An operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

~~(2) A mortuary license expires on the date set by department rule and may be renewed upon payment of a fee set by the board.~~

~~(3) The board may set a penalty for late renewal of a mortuary license.~~"

Section 60. Section 37-19-702, MCA, is amended to read:

"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal. (1) A person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the cremation of human remains and that conducts cremations must be licensed by the board~~, beginning July 1, 1993~~. The license must be displayed in a conspicuous place in the crematory facility.

(2) A crematory license expires on the date set by department rule and may be renewed upon payment of a fee set by the board~~, which includes~~. The fee must include the cost of annual inspection. If a crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection of both a mortuary facility under 37-19-403 and a crematory facility.

~~(3) The board may set a penalty fee for late renewal of a license.~~

~~(4)~~(3) A person in charge of a licensed crematory facility must be licensed as a crematory operator by the board. A person employed by a licensed crematory facility must be licensed as a crematory technician by the

board. The license must be displayed in a conspicuous place in the crematory facility.

~~(5)~~(4) Crematory operator and crematory technician licenses expire on the date set by department rule and may be renewed upon payment of a fee set by the board. On-the-job training must be provided to a crematory technician at the time of employment."

Section 61. Section 37-19-807, MCA, is amended to read:

"37-19-807. Powers and duties of board. The board is charged with administering this part. The board may:

(1) conduct reasonable periodic, special, or other examinations of a cemetery or cemetery company, including but not limited to an examination of the physical condition or appearance of the cemetery, an audit of the financial condition of the cemetery company and any trust funds maintained by the cemetery company, and any other examinations the board considers necessary or appropriate in the public interest. The board may also order examinations in response to public complaints. The examinations must be made by members or representatives of the board that may include a certified or registered public accountant or any other person designated by the board.

(2) issue or amend permits to operate a cemetery in accordance with the provisions of this part;

(3) adopt rules ~~and forms~~ to enforce the provisions of this part;

(4) require a cemetery company to observe minimum accounting principles and practices and to keep books and records in accordance with the principles and practices for ~~the~~ a period ~~of time~~ that the board may by rule prescribe; and

(5) require a cemetery company to provide additional contributions to the perpetual care and maintenance fund of the cemetery as provided for in this part, including but not limited to contributions not to exceed $1,000 whenever a cemetery company fails to properly care for, maintain, or preserve a cemetery."

Section 62. Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a physician assistant-certified in the practice of medicine, as defined in 37-3-102, and a physician assistant-certified may not be employed or practice as a physician assistant-certified unless the physician assistant-certified:

(a) is supervised by a licensed physician;

(b) is licensed by the Montana state board of medical examiners; and

(c) has received board approval of a physician assistant-certified utilization plan.

(2) A physician assistant-certified utilization plan must set forth in detail the following information:

(a) the name and qualifications of the supervising physician, as provided in 37-20-101, and the name and license number of the physician assistant-certified;

(b) the nature and location of the physician's medical practice;

(c) the scope of practice of the physician assistant-certified and the locations where the physician assistant-certified will practice;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to act as an alternate supervising physician in the absence of the primary supervising physician;

(e) necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified; and

(f) other information the board may consider necessary.

(3) The board shall approve the utilization plan if ~~it~~ the board finds that the practice of the physician assistant-certified is:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the physician assistant-certified.

(4) A supervising physician and a physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the criteria set out in 37-20-402, so long as the information requirements of subsection (2) have been met and the appropriate fee provided for in 37-20-302~~(1)~~ has been paid.

(5) A utilization plan may provide that a physician assistant-certified be allowed to furnish services on a locum tenens basis at a location other than the physician assistant-certified's primary place of practice. A locum tenens utilization plan may be approved by a single board member."

Section 63. Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval and fee ~~-- renewal of license -- renewal fee~~. ~~(1)~~ A utilization

plan must be submitted for approval, and a fee must be paid in an amount set by the board. Payment must be made when the utilization plan is submitted to the board and is not refundable.

~~(2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.~~

~~(3) A license issued under this part must be renewed for a period and on a date set by the department of labor and industry.~~

~~(4) A license renewal fee set by the board must be paid at the time the license is renewed.~~

~~(5) The department of labor and industry shall mail a renewal notice prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the license renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~

~~(7) Fees received by the department of labor and industry must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6).~~"

Section 64. Section 37-22-201, MCA, is amended to read:

"37-22-201. Duties of board. The board ~~shall~~:

~~(1) subject to 37-1-101, examine qualified applicants, issue licenses to qualified applicants that meet the requirements of this chapter, and renew licenses under the provisions of this chapter;~~

~~(2)~~(1) shall recommend prosecutions for violations of 37-22-411 and 37-23-311 to the attorney general or the appropriate county attorney, or both;

~~(3) annually publish a list of the names and addresses of all persons who are licensed social workers;~~

~~(4) establish requirements for continuing education that are a condition of license renewal;~~

~~(5)~~(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 22, and 23 ~~this section~~. The board may, once a year by a consensus of ~~its~~ board members, determine that there is no necessity for a board meeting.

~~(6) distribute a copy of the ethical standards to the certified masters of social work; and~~

~~(7)~~(3) shall adopt rules that set professional, practice, and ethical standards for ~~licensed masters of~~ social ~~work~~ workers and professional counselors and ~~such~~ other rules as may be reasonably necessary for the administration of chapter 23 and this chapter~~.~~; and

(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued."

Section 65. Section 37-22-301, MCA, is amended to read:

"37-22-301. License requirements -- exemptions. (1) A license applicant shall satisfactorily complete an examination ~~prepared and administered~~ prescribed by the board.

(2) Before an applicant may take the examination, the applicant shall present three letters of reference from licensed social workers, licensed clinical social workers, psychiatrists, or psychologists who have knowledge of the applicant's professional performance and shall demonstrate to the board that the applicant:

(a) has a doctorate or master's degree in social work from a program accredited by the council on social work education or approved by the board;

(b) has completed at least 24 months of supervised post master's degree work experience in psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years; and

(c) abides by the social work ethical standards adopted under 37-22-201.

~~(3) An applicant who submits an application for licensure before October 1, 1994, may acquire the supervised experience required by subsection (2)(b) in less than 24 months.~~

~~(4)~~(3) An applicant who ~~has failed~~ fails the examination may reapply to take the examination.

~~(5)~~(4) An applicant is exempt from the examination requirement if the applicant satisfies the board that the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and that the applicant has passed an examination similar to that required by the board."

Section 66. Section 37-22-302, MCA, is amended to read:

"37-22-302. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~equal to the cost of processing the application.~~

~~(2) Each applicant for a license required to take an examination shall, prior to commencement of the examination, pay an examination fee set by the board equal to the cost of administering the examination.~~

~~(3) Each applicant shall, prior to receipt of a license or license renewal, pay a fee set by the board equal to the cost of issuing a license.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 67. Section 37-23-101, MCA, is amended to read:

"37-23-101. Purpose. The legislature finds and declares that because the profession of professional counseling profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by ensuring ethical, qualified, and professional practice of professional counseling. This chapter and the rules promulgated by the board under ~~37-23-103~~ 37-22-201 set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of professional counseling as licensed professional counselors."

Section 68. Section 37-23-202, MCA, is amended to read:

"37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily ~~completed~~:

(a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum~~, which~~ that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) ~~and~~ passed an examination prepared and administered by:

~~(i) the board, based on a national examination approved by the board;~~

~~(ii)~~(i) the national board of certified counselors; or

~~(iii)~~(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application ~~form and process prescribed by the board~~.

(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester ~~hour graduate degree that is~~ hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years."

Section 69. Section 37-23-203, MCA, is amended to read:

"37-23-203. ~~Issuance, effective date, and display~~ Display of license. ~~(1) If an applicant meets the requirements contained in 37-23-202 and has paid the appropriate fees, the board shall issue a license to the~~

~~applicant attesting to the date and fact of licensure. The license is effective on the date of issuance and must be renewed as provided in 37-23-205.~~

~~(2)~~ The license received pursuant to 37-23-202 must be displayed in the registrant's place of business or employment."

Section 70. Section 37-23-206, MCA, is amended to read:

"37-23-206. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~commensurate with costs.~~

~~(2) Each applicant for a license required to take an examination shall, before commencement of the examination, pay an examination fee set by the board commensurate with costs.~~

~~(3) Each applicant shall, before receipt of a license or license renewal, pay a fee set by the board commensurate with costs.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 71. Section 37-24-202, MCA, is amended to read:

"37-24-202. Powers and duties of board. (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

~~(b) evaluate the qualifications of applicants for licensure under this chapter and approve and supervise the examination of applicants;~~

~~(c)~~(b) adopt rules relating to professional licensure and the establishment of ethical standards of practice under this chapter; and

~~(d) conduct hearings and keep records and minutes as the board considers necessary to carry out its functions; and~~

~~(e)~~(c) adopt a seal by which the board shall authenticate ~~its~~ board proceedings.

(2) A copy of the proceedings, records, or acts of the board, signed by the presiding officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of the document.

~~(3) The department may employ persons it considers necessary to carry out the provisions of this chapter.~~"

Section 72. Section 37-24-303, MCA, is amended to read:

"37-24-303. Requirements for licensure. (1) To be eligible for licensure by the board as an occupational therapist or an occupational therapy assistant, the applicant shall:

(a) present evidence of having successfully completed the academic requirements of an educational program recognized by the board for the license sought;

(b) submit evidence of having successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution where the person completed the academic requirements or by a nationally recognized professional association;

(c) submit evidence of having been certified by the national board for certification in occupational therapy, inc. (NBCOT); and

(d) pass an examination ~~as provided for in 37-24-304~~ prescribed by the board.

(2) The supervised fieldwork experience requirement for an occupational therapist is a minimum of 6 months. The supervised fieldwork experience requirement for an occupational therapy assistant is a minimum of 2 months."

Section 73. Section 37-24-310, MCA, is amended to read:

"37-24-310. Fees. ~~(1)~~ The board may adopt fees in accordance with 37-1-134 for:

~~(a)~~(1) applications for licensure;

~~(b) examination;~~

~~(c)~~(2) initial license issuance; and

~~(d) license renewal;~~

~~(e) late license renewal; and~~

~~(f)~~(3) limited permit issuance.

~~(2) All fees collected by the board under this section must be deposited in the state special revenue fund for the use of the board in administering this act, subject to 37-1-101(6).~~"

Section 74. Section 37-25-201, MCA, is amended to read:

"37-25-201. Powers and duties of the board. In addition to all other powers and duties conferred and imposed on the board by Title 37, chapter 1, and this chapter, the board shall~~:~~

~~(1) examine qualified applicants for a license to practice dietetics-nutrition, issue licenses to applicants~~

~~who meet the requirements established by this chapter, and renew licenses as provided in 37-25-307; and~~

~~(2)~~ adopt rules that set professional, practice, and ethical standards for licensed nutritionists and ~~such~~ other rules as may be necessary for the administration of this chapter."

Section 75. Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

~~(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;~~

~~(4)~~(3) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

~~(5)~~(4) adopt rules that set nonrefundable fees~~, commensurate with costs~~, for application, ~~examination,~~ and licensure~~, and other administrative services~~;

~~(6)~~(5) approve naturopathic medical colleges as defined in 37-26-103;

~~(7)~~(6) issue certificates of specialty practice;

~~(8)~~(7) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301;

~~(9)~~(8) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301; and

~~(10)~~(9) adopt rules to implement the provisions in 37-1-138."

Section 76. Section 37-26-403, MCA, is amended to read:

"37-26-403. Application for licensure -- examination -- temporary license. (1) A person who desires a license to practice naturopathic medicine in Montana shall apply to the department ~~in the manner and form prescribed by the board~~. The application must be accompanied by the license fees, the application fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the department may make an independent

investigation to determine whether the applicant possesses the necessary qualifications and whether the applicant has committed unprofessional conduct that would be a basis for licensure denial. At the board's request, the applicant shall provide necessary authorizations for the release of records and information pertinent to the department's investigation.

(2) A person who applies for licensure but who has not passed a licensure examination prescribed or endorsed by the board shall apply to the board for authorization to take the prescribed licensure examination. ~~The application for examination must be accompanied by the examination fee.~~ If the board finds that all other qualifications for licensure except that of examination have been met, the board shall authorize the applicant to take the licensure examination."

Section 77. Section 37-27-105, MCA, is amended to read:

"37-27-105. General powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules may include but are not limited to:

~~(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;~~

~~(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989;~~

~~(c)~~(a) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

~~(d)~~(b) the development of eligibility criteria for client screening by direct-entry midwives ~~in order~~ to achieve the goal of providing midwifery services to women during low-risk pregnancies;

~~(e) the development of procedures for the issuance, renewal, suspension, and revocation of licenses consistent with the provisions in 37-1-138;~~

~~(f) the adoption of disciplinary standards for licensees;~~

~~(g)~~(c) the development of standardized informed consent and reporting forms;

~~(h)~~(d) the adoption of ethical standards for licensed direct-entry midwives;

~~(i)~~(e) the adoption of supporting documentation requirements for primary birth attendants; and

~~(j)~~(f) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201."

Section 78. Section 37-27-210, MCA, is amended to read:

"37-27-210. Fees. (1) An applicant for a direct-entry midwife license shall, upon submitting an application to the board, pay an application fee set by the board~~, commensurate with costs~~.

~~(2) An applicant required to take an examination shall, before commencement of the examination, pay an examination fee set by the board, commensurate with costs.~~

~~(3)~~(2) Before a license may be issued or renewed, an applicant shall pay a fee set by the board~~, commensurate with costs~~.

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~

~~(5)~~(3) Fees are nonrefundable."

Section 79. Section 37-28-104, MCA, is amended to read:

"37-28-104. Board powers and duties. (1) The board shall~~:~~

~~(a) examine,~~ license, grant temporary permits, and renew the licenses or permits of duly qualified applicants~~;~~

~~(b) establish examinations and passing scores for licensure under 37-28-202;~~

~~(c) adopt and implement rules for continuing education requirements to ensure the quality of respiratory care~~.

(2) The board may~~:~~

~~(a)~~ adopt rules necessary to implement the provisions of this chapter~~; and~~

~~(b) establish relicensing requirements and procedures that the board considers appropriate~~."

Section 80. Section 37-28-202, MCA, is amended to read:

"37-28-202. Licensing requirements -- examination -- fees. (1) To be eligible for licensure by the

board as a respiratory care practitioner, the applicant shall:

(a) submit to the board an application fee in an amount established by the board and ~~a written~~ an application ~~on a form provided by the board~~ demonstrating that the applicant has completed:

(i) high school or the equivalent; and

(ii) a respiratory care educational program accredited or provisionally accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education or their successor organizations; and

(b) pass an examination prescribed by the board. The board may use the entry-level examination written by the national board for respiratory care or another examination that satisfies the standards of the national commission for health certifying agencies or the commission's equivalent.

(2) A person holding a license to practice respiratory care in this state may use the title "respiratory care practitioner" and the abbreviation "RCP"."

Section 81. Section 37-29-306, MCA, is amended to read:

"37-29-306. Licensing. (1) A denturist license is valid for a period established by department rule ~~and expires on the date set by department rule. A renewal license must be issued upon timely payment of the renewal fee and the submission of proof of continued qualification for licensure. In addition, the~~. A denturist shall submit proof that the denturist holds a current cardiopulmonary resuscitation card. ~~The license must bear on its face the address where the licensee's denturist services will be performed.~~

(2) ~~Applications~~ An application must be submitted on ~~forms approved by the board and~~ a form furnished by the department. Each application must include all other documentation necessary to establish that the applicant meets the requirements for licensure and is eligible to take the licensure examination. ~~Applications~~ An application must be accompanied by the appropriate fees.

~~(3) This section may not be interpreted to conflict with 37-1-138.~~"

Section 82. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall prescribe rules for:

(1) the conduct of ~~its~~ board business;

(2) the qualification~~, examination,~~ and ~~registration~~ licensure of applicants to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or

manicuring;

(3) the regulation and instruction of apprentices and students;

(4) the conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring for apprentices and students;

(5) the qualification and ~~registration~~ licensure of applicants for booth rental licenses; and

(6) generally the conduct of the persons, firms, or corporations affected by this chapter."

Section 83. Section 37-31-302, MCA, is amended to read:

"37-31-302. License required to practice, teach, or operate salon or shop, booth, or school. (1) A person may not practice or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license.

(2) A place may not be used or maintained for the teaching of barbering, cosmetology, electrology, esthetics, or manicuring for compensation ~~except under a certificate of registration~~ unless licensed as a school.

(3) A person may not operate or manage a salon or shop without a license.

(4) A person may not operate or conduct a school of barbering, cosmetology, electrology, esthetics, or manicuring or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license to teach barbering, cosmetology, electrology, esthetics, or manicuring.

(5) A person may not manage or operate a booth without a booth rental license.

(6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon or shop shall apply to the department for a ~~certificate of registration and~~ license. The application must be accompanied by the ~~registration~~ license fee.

(7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."

Section 84. Section 37-31-303, MCA, is amended to read:

"37-31-303. Application for license to practice or teach. An applicant for a license to practice or teach barbering, cosmetology, electrology, esthetics, or manicuring shall file an application ~~prescribed by the board~~ provided by the department and pass the examination prescribed by the board ~~in order~~ to qualify for licensure. ~~The license must be renewed in accordance with the provisions of 37-31-322.~~"

Section 85. Section 37-31-304, MCA, is amended to read:

"37-31-304. Qualifications of applicants for license to practice. (1) Before a person may practice:

(a) barbering, the person shall obtain a license to practice barbering from the department~~. Before a person may practice~~;

(b) cosmetology, the person shall obtain a license to practice cosmetology from the department~~. Before a person may practice~~;

(c) electrology, the person shall obtain a license to practice electrology from the department~~. Before a person may practice~~;

(d) manicuring, the person shall obtain a license to practice manicuring from the department unless the person is licensed to practice cosmetology~~. Before a person may practice~~; or

(e) esthetics, the person shall obtain a license to practice esthetics from the department unless the person is already licensed to practice cosmetology.

(2) (a) To be eligible to take the examination to practice barbering, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 1,500 hours in a ~~registered~~ licensed barbering school and must have received a diploma from the barbering school or must have completed the course of study in barbering at a school of cosmetology authorized to offer a course of study in barbering prescribed by the board.

(b) A person qualified under subsection (2)(a) shall file ~~a written~~ an application and deposit the application fee with the department and pass an examination as to fitness to practice barbering.

(c) The board shall issue a license to practice barbering, without examination, to a person licensed in another state if the board determines that:

(i) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and

(ii) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.

(3) (a) To be eligible to take the examination to practice cosmetology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. A person may apply to the board for an exception to the

educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 2,000 hours in a ~~registered~~ licensed cosmetology school and must have received a diploma from the cosmetology school or must have completed the course of study in cosmetology prescribed by the board.

(b) A person qualified under subsection (3)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice cosmetology.

(4) (a) To be eligible to take the examination to practice electrology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of education, training, and experience in the field of electrology as prescribed by the board by rule.

(b) A person qualified under subsection (4)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice electrology.

(5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of manicuring. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or a certificate of completion from a vocational-technical program. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (5)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice manicuring.

(6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board and consisting of not less than 650 hours of training and instruction in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of esthetics. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (6)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice esthetics."

Section 86. Section 37-31-305, MCA, is amended to read:

"37-31-305. Qualifications of applicants for license to teach. (1) Before a person may teach manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics or to teach cosmetology, the person shall obtain from the department a license to teach cosmetology.

(2) To be eligible to take an examination to obtain a license to teach cosmetology, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized by the superintendent of public instruction; and

(b) (i) have a license to practice cosmetology issued by the department and have received a diploma from a ~~registered~~ licensed school of cosmetology approved by the board, certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(3) Before a person may teach manicuring to a person seeking only to be licensed to practice manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach manicuring.

(4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice manicuring or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(5) Before a person may teach esthetics to a person seeking only to be licensed to practice esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach esthetics.

(6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice esthetics or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(7) To be eligible to take an examination to obtain a license to teach barbering, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice barbering issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 500 hours of student teacher training; or

(ii) have been actively engaged as a barber for 3 continuous years immediately before taking the teacher's examination.

(8) To be eligible to take an examination for a license to teach electrology, a person must:

(a) be a high school graduate or possess an equivalent of a high school diploma recognized by the superintendent of public instruction;

(b) have a 100-hour teacher certificate; and

(c) have been actively engaged as an electrologist for 3 continuous years immediately preceding taking the teacher's examination."

Section 87. Section 37-31-308, MCA, is amended to read:

"37-31-308. ~~Examination -- reexamination -- exemption~~ Exemption for persons with disabilities. ~~(1) Examinations for a license to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or manicuring must be held at places and times specified by the board. The examinations may not be confined to a specific method or system. The board may contract with an outside agency for examination and grading services.~~

~~(2)~~ ~~Persons~~ A person with a physical ~~disabilities~~ disability who is trained for barbering, cosmetology, electrology, esthetics, or manicuring by the department of public health and human services ~~are~~ is, for a period

of 1 year immediately following ~~their~~ graduation, exempt from the examination and the fees described in 37-31-323. On certification from the department of public health and human services that a department of public health and human services beneficiary has successfully completed the required training in a school of barbering, cosmetology, electrology, esthetics, or manicuring, the department shall issue the person the necessary ~~certificate or~~ license to practice the profession in this state."

Section 88. Section 37-31-311, MCA, is amended to read:

"37-31-311. Schools -- ~~certificate of registration~~ license -- requirements -- bond -- curriculum. (1) A person, firm, partnership, corporation, or other legal entity may not operate a school for the purpose of teaching barbering, cosmetology, electrology, esthetics, or manicuring for compensation unless ~~a certificate of registration has been first obtained from~~ licensed by the department. Application for the ~~certificate~~ license must be filed with the department on ~~a~~ an approved form ~~prescribed by the board~~.

(2) A school for teaching barbering may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of barbering.

(c) It maintains a school term of not less than 1,500 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of barbering.

(3) A school for teaching cosmetology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the

proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of cosmetology.

(c) It maintains a school term of not less than 2,000 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of cosmetology.

(4) A school for teaching electrology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school maintains a school term~~, prescribes~~ and a course of practical training and technical instruction prescribed by the board, and possesses apparatus and equipment necessary for teaching electrology as prescribed by the board.

(5) A school for teaching manicuring may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of manicuring.

(b) It maintains a school term and ~~prescribes~~ a course of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of manicuring.

(6) A school for teaching esthetics may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the ready and full teaching of all subjects or practices of esthetics.

(b) It maintains a school term and a course consisting of not less than 650 hours of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of esthetics.

(7) Licenses ~~or certificates of registration~~ for schools of barbering, cosmetology, electrology, esthetics, or manicuring may be refused, revoked, or suspended as provided in 37-31-331.

(8) A teacher or student teacher may not be permitted to practice barbering, cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a course of student teacher training may not have, at any one time, more than one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

(9) The board may make further rules necessary for the proper conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring.

(10) The board shall require the person, firm, partnership, corporation, or other legal entity operating a school of barbering, cosmetology, electrology, esthetics, or manicuring to furnish a bond or other security in the amount of $5,000 and in a form and manner prescribed by the board.

(11) A professional salon or shop may not be operated in connection with a school of barbering, cosmetology, electrology, esthetics, or manicuring.

(12) The board may, by rule, establish a suitable curriculum for teachers' training in ~~registered~~ licensed schools of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 89. Section 37-31-312, MCA, is amended to read:

"37-31-312. Inspection. (1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or shops and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, school of barbering, school of cosmetology, school of electrology, school of esthetics, or school of manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit the inspection during business hours is cause for revocation of a licensee's or school's license ~~or a school's certificate of registration~~.

(2) Upon application for a license, a salon or shop shall pay an initial inspection fee prescribed by the board.

(3) The board may authorize the department to grant to a salon or shop, upon payment of the initial inspection fee, a temporary permit authorizing the salon or shop to operate for a period not to exceed 90 days or until the inspector is able to make the inspection, whichever occurs first. A temporary permit is not renewable.

(4) The department shall require the inspector or inspectors, appointed as provided in subsection (1),

to conduct an annual inspection of each salon or shop in the state."

Section 90. Section 37-31-323, MCA, is amended to read:

"37-31-323. Fees. (1) Fees for licenses ~~and certificates of registration~~ must be paid to the department in amounts prescribed by the board.

(2) The license ~~and registration~~ fees must be paid in advance to the department unless otherwise provided by board rule.

(3) Other or additional license ~~or registration~~ fees may not be imposed by a municipal corporation or other political subdivision of this state for the practice or teaching of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 91. Section 37-34-201, MCA, is amended to read:

"37-34-201. Powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of ~~a license application procedure and~~ acceptable certifications for each category of license;

~~(b) the establishment of license fees commensurate with actual costs;~~

~~(c)~~(b) the establishment of criteria for educational requirements that, at a minimum, meet the standards set forth in 37-34-303; and

~~(d) the development of procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses consistent with the provisions in 37-1-138;~~

~~(e) the adoption of disciplinary standards for licensees;~~

~~(f) the establishment of hearing procedures; and~~

~~(g)~~(c) a requirement that the supervisor of a clinical laboratory technician be accessible at all times that

testing is being performed by the technician in order to provide onsite, telephonic, or electronic consultation."

Section 92. Section 37-34-305, MCA, is amended to read:

"37-34-305. Licensure application procedures. (1) An applicant shall submit an application for a license to the board ~~upon the forms prescribed and furnished by the board~~ and shall pay an application fee set by the board.

(2) Upon receipt of the application and fee, the ~~board~~ department shall issue a license for a clinical laboratory scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and 37-34-303.

~~(3) A license issued under this chapter must be renewed on or before the date set by department rule.~~

~~(4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~"

Section 93. Section 37-35-103, MCA, is amended to read:

"37-35-103. Department powers and duties. (1) The department shall:

(a) ~~examine,~~ license~~,~~ and renew the licenses of qualified applicants;

(b) adopt rules:

(i) for eligibility requirements and competency standards;

~~(ii) prescribing the time, place, content, and passing requirements of the licensure and competency examinations and passing scores for licensure under 37-35-202;~~

~~(iii) for application forms and fees for licensure and for renewal and licensure expiration dates; and~~

~~(iv)~~(ii) defining any unprofessional conduct that is not included in ~~37-1-316~~ 37-1-410; and

~~(c)~~(iii) ~~adopt and implement rules~~ setting criteria for training programs, internships, and continuing education requirements to ensure the quality of addiction counseling.

(2) The department may:

(a) adopt rules necessary to implement the provisions of this chapter;

(b) adopt rules specifying the scope of addiction counseling that are consistent with the education required by 37-35-202; and

(c) establish licensure requirements and procedures that the department considers appropriate."

Section 94. Section 37-40-302, MCA, is amended to read:

"37-40-302. Application -- examination -- certificate. (1) A person wishing to practice the profession of sanitarian may apply to the department for registration on a form ~~prescribed~~ furnished by the ~~board~~ department.

(2) An applicant must have a minimum of a bachelor's degree in environmental health or its equivalent from an accredited university or college ~~and shall pass an examination given at a time and place set by the board. The board shall establish procedures for examination and determination of passing scores by rule~~.

(3) If the applicant meets the board's standards and passes the examination prescribed by the board, the department shall issue a certificate of registration.

(4) ~~Holders~~ A holder of a current ~~certificates are~~ certificate is entitled to append to ~~their~~ the holder's name the initials "R.S."."

Section 95. Section 37-42-304, MCA, is amended to read:

"37-42-304. Application for operator's certificate -- fee. A person desiring to engage in the operation of a water treatment plant, water distribution system, or wastewater treatment plant shall first file an application with the department for a proper certificate. The department shall charge a fee of the same amount as the license cost ~~as established pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of processing the application is offset by federal funds received. The department may not act on an application until the fee has been paid."

Section 96. Section 37-42-308, MCA, is amended to read:

"37-42-308. Annual renewal -- fees -- revocation for failure to renew -- reinstatement -- notice of suspension. (1) Certificates issued under this chapter must be renewed annually before July 1. A certificate issued after July 1 expires the following June 30. After the payment of the initial fee under 37-42-304, a certificate holder shall pay before July 1 of each certificate year a renewal fee according to the schedule adopted by the department ~~pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of administering the certificate is offset by federal funds received to fund the administration of the program.

(2) Subject to subsection (6), if a certificate holder does not apply for a renewal of the certificate before July 1 and remit to the department the necessary renewal fee, the department shall suspend the certificate. Subject to subsection (6), the department shall revoke any certificate that remains suspended for a period of more than 30 days. However, the department, before this revocation, shall notify the certificate holder by certified mail

at the address on the issued certificate of ~~its~~ the department's intention to revoke, at least 10 days before the time set for action to be taken by the department on the certificate.

(3) A certificate once revoked may not be reinstated unless it appears that an injustice has occurred through error or omission or other fact or circumstances indicating to the department that the certificate holder was not guilty of negligence or laches.

(4) Notice of suspension must be given to the certificate holder when the suspension occurs and to the proper official or owner of the treatment works or distribution system.

(5) If a person whose certificate has been revoked through the person's own fault desires to continue as a water or wastewater plant operator, the person shall ~~make application~~ apply to the department under 37-42-304. Successful completion of an examination may be required at the discretion of the department.

(6) This section may not be interpreted to conflict with the provisions of 37-1-138."

Section 97. Section 37-47-101, MCA, is amended to read:

"37-47-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accompany" means to go with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in the area where the activity is being conducted and within sight or sound of the participant at some time during the furnishing of service.

(2) "Base of operations" means the primary physical location where an outfitter receives mail and telephone calls, conducts regular daily business, and bases livestock, equipment, and staff during the hunting season.

(3) "Board" means the board of outfitters provided for in 2-15-1773.

(4) "Camp" means each individual facility or group of facilities that an outfitter uses to lodge a client for a client's trip or uses to lodge a client in the operating area designated in the outfitter's operations plan, including a motel, campground, bed and breakfast, lodge, tent camp, cabin, camper, trailer, or house.

(5) "Consideration" means something of value given or done in exchange for something of value given or done by another.

(6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(7) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to

activities for which the outfitter is licensed.

(8) "License year" means ~~that~~ the period ~~beginning January 1 and ending December 31 of the same year~~ indicated on the face of the license for which the license is valid.

(9) "Net client hunter use" or "NCHU" means the most actual clients served by an outfitter in any NCHU license category in any license year, as documented by verifiable client logs or other documents maintained by the board pursuant to 37-47-201~~(7)~~.

(10) "Nonresident" means a person other than a resident.

(11) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal; facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or professional guide in accompanying that person.

(12) "Participant" means a person using the services offered by a licensed outfitter.

(13) "Professional guide" means a guide who ~~has met~~ meets experience, training, and testing qualifications for designation as a professional guide, as set by board rule.

(14) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102."

Section 98. Section 37-47-201, MCA, is amended to read:

"37-47-201. Powers and duties of board relating to outfitters, guides, and professional guides. The board shall:

~~(1) prepare and publish an information pamphlet that contains the names and addresses of all licensed outfitters. This pamphlet must be available for free distribution as early as possible during each calendar year but not later than the second Friday in March. The pamphlet must contain the names and addresses of only those outfitters who have a valid license for the current license year.~~

~~(2)~~(1) cooperate with the federal government in matters of mutual concern regarding the business of outfitting and guiding in Montana;

~~(3)~~(2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;

~~(4)~~(3) establish outfitter standards, guide standards, and professional guide standards;

~~(5)~~(4) adopt:

~~(a) rules of procedure;~~

~~(b)~~(a) rules to administer and enforce this chapter, including rules prescribing all requisite qualifications for licensure as an outfitter, guide, or professional guide. Qualifications for outfitters must include training, testing, experience in activities similar to the service to be provided, knowledge of rules of governmental bodies pertaining to outfitting and condition and type of gear and equipment, and the filing of an operations plan.

~~(c)~~(b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health, safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing or offering to practice as an outfitter, guide, or professional guide;

~~(d)~~(c) rules specifying standards for review and approval of proposed new operations plans involving hunting use or the proposed expansion of net client hunter use, as set forth in 37-47-316 and 37-47-317, under an outfitter's existing operations plan. Approval is not required when part or all of an existing operations plan is transferred from one licensed outfitter to another licensed outfitter. Rules adopted pursuant to this section must provide for solicitation and consideration of comments from hunters and sportspersons in the area to be affected by the proposal who do not make use of outfitter services.

~~(e)~~(d) rules establishing outfitter reporting requirements. The reports must be filed annually and report actual leased acreage actively used by clients during that year and actual leased acres unused by clients during that year, plus any other information designated by the board and developed in collaboration with the department of fish, wildlife, and parks or the review committee established in 87-1-269 that is considered necessary to evaluate the effectiveness of the hunter management and hunting access management programs.

~~(6)~~(5) hold hearings and proceedings to suspend or revoke licenses of outfitters, guides, and professional guides for due cause;

~~(7)~~(6) maintain records of actual clients served by all Montana outfitters that fulfill the requirements of subsection ~~(5)(e)~~ (4)(d)."

Section 99. Section 37-47-304, MCA, is amended to read:

"37-47-304. Application. (1) Each applicant for an outfitter's, guide's, or professional guide's license shall apply for a license on a form ~~prescribed and~~ furnished by the ~~board~~ department.

(2) The application for an outfitter's license forms the basis for the outfitter's operations plan and must include:

(a) the applicant's full name, residence, address, conservation license number, driver's license number, birth date, physical description, and telephone number;

(b) the address of the applicant's principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the applicant;

(d) the experience of the applicant, including:

(i) years of experience as an outfitter, guide, or professional guide;

(ii) the applicant's knowledge of areas in which the applicant has operated and intends to operate; and

(iii) the applicant's ability to cope with weather conditions and terrain;

(e) a signed statement of the licensed outfitter for each guide and professional guide to be employed or retained as an independent contractor, stating that the guide or professional guide is to be employed by the outfitter and stating that the outfitter recommends the guide or professional guide for licensure;

(f) an affidavit by the outfitter to the board that the equipment listed on the application is in fact owned or leased by the applicant, is in good operating condition, and is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant;

(g) a statement of the maximum number of participants to be accompanied at any one time;

(h) the written approval of the appropriate agency or landowner on whose lands the applicant ~~will~~ intends to provide services or establish hunting camps; and

(i) the boundaries of the proposed operation, stating when applicable:

(i) the name and portion of river;

(ii) the county of location;

(iii) the legal owner of the property;

(iv) the name of the ranch;

(v) the proposed service, including the type of game sought;

(vi) the name of the agency granting use authority; and

(vii) other means of identifying boundaries as established by board rule.

(3) ~~Applications~~ An application for an outfitter's license must be in the name of an individual person only. ~~Applications~~ An application involving corporations, proprietorships, or partnerships must be made by one individual person who qualifies under the provisions of this part. A license issued pursuant to this part must be in the name of that person. Any revocation or suspension of a license is binding upon the individual person and

the corporation, proprietorship, or partnership for the use and benefit of which the license was originally issued.

(4) Application must be made to and filed with the board.

(5) Only one application for an outfitter's license may be made in any license year. If an application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 37-47-308."

Section 100. Section 37-50-304, MCA, is amended to read:

"37-50-304. Public accountants -- licensure without examination of former military personnel -- examination otherwise required. (1) ~~Persons~~ A person serving in the armed forces of the United States on July 1, 1969, who immediately prior to entering ~~this service held themselves out~~ the armed forces represented to the public ~~as~~ that the person was a public ~~accountants~~ accountant and who ~~were~~ was engaged as ~~principals~~ a principal in this state in the practice of public accounting as ~~their~~ the person's principal occupation prior to service in the armed forces may register with the department within 6 months after the date of ~~their~~ the person's separation from active service and, on registration and payment of the license fee, be issued a license by the department as a licensed public accountant. A principal is either the owner of or a partner in an existing accounting practice on July 1, 1969.

(2) ~~In order to~~ To be issued a license as a licensed public accountant, a person who does not qualify under subsection (1) shall successfully complete those portions of the examination ~~provided for in 37-50-308~~ prescribed by the board by rule. The board may require successful completion of alternate portions of the examination for applicants holding valid United States treasury cards at the time of taking the examination."

Section 101. Section 37-51-204, MCA, is amended to read:

"37-51-204. Educational programs. (1) The board may, subject to 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in this connection.

(2) Except as provided in 37-51-302 and subsection (3) of this section, the board may not require examinations of licensees.

(3) The board may require specified performance levels of a licensee with respect to the subject matter of a continuing education course required ~~under 37-51-310~~ by the board when the licensee and the instructor of the course are not physically present in the same facility at the time the licensee receives the instruction."

Section 102. Section 37-51-303, MCA, is amended to read:

"37-51-303. Broker or salesperson examination. (1) In addition to proof of honesty, trustworthiness, and good reputation, an applicant whose application is pending shall satisfactorily pass an examination ~~prescribed by or under the supervision of the board. The examination must be given at least once each 6 months and at places within the state that the board prescribes~~.

(2) (a) The examination for a salesperson's license must include subject portions that the board determines by rule to be appropriate.

(b) If the applicant passes one subject portion of the examination, the applicant is not required to repeat that portion of the examination if the applicant passes the remaining portion within 12 months.

(3) The examination for a broker's license must be of a more exacting nature and scope and more stringent than the examination for a salesperson's license."

Section 103. Section 37-51-305, MCA, is amended to read:

"37-51-305. License ~~-- form~~ -- delivery -- display -- pocket card. (1) ~~The board shall prescribe the form of license.~~ A license ~~shall~~ must bear the seal of the board.

(2) The license of a real estate salesperson ~~shall~~ must be delivered or mailed to the real estate broker with whom the real estate salesperson is associated and ~~shall~~ must be kept in the custody and control of the broker.

(3) A broker shall display ~~his~~ the broker's own license conspicuously in ~~his~~ the broker's place of business.

(4) The department shall annually prepare and deliver a pocket card certifying that the person whose name appears is a registered real estate broker or a registered real estate salesperson, stating the period for which fees have been paid and, on real estate salesperson's cards only, the name and address of the broker with whom ~~he~~ the real estate salesperson is associated."

Section 104. Section 37-51-603, MCA, is amended to read:

"37-51-603. Qualification of property manager applicants -- examination -- form of licenses. (1) The board by rule shall require an applicant for licensure to provide information that the board believes is necessary to ensure that a person granted a property manager license is of good repute and competent to transact the business of a property manager in a manner that safeguards the welfare and safety of the public.

(2) (a) The board shall require an applicant for a property manager license to:

(i) apply for licensure to the department;

(ii) furnish written evidence that the applicant has completed the number of classroom hours that the board determines appropriate in a course of study approved by the board and taught by instructors approved by the board; and

(iii) satisfactorily complete an examination dealing with the material taught in the course of study.

(b) The course of study must include the subjects of real estate leasing principles, real estate leasing law, and related topics.

~~(3) Examinations must be given at least once every 4 months at places within the state that the board prescribes. The board shall establish by rule the contents of and requirements to pass the examination.~~

~~(4)~~(3) An applicant for licensure as a property manager must be at least 18 years of age and must have graduated from an accredited high school or completed an equivalent education as determined by the board.

~~(5)~~(4) The ~~board shall prescribe the form of the license, and the~~ license must bear the seal of the board. A property manager shall display the license conspicuously in the property manager's place of business.

~~(6)~~(5) The department shall prepare and deliver to the licensee a pocket card in a form and at times prescribed by the board."

Section 105. Section 37-53-104, MCA, is amended to read:

"37-53-104. Rulemaking authority. The board shall adopt rules to carry out the provisions of this chapter. The rules may include but are not limited to:

(1) ~~format of forms for applications and renewal of registration~~ qualifications for applicants and ~~prescribing~~ any additional applicant information ~~to~~ that must be supplied;

(2) documents acceptable in lieu of registration documents under 37-53-204;

(3) conditions that may be placed upon registration under 37-53-212;

(4) the subject matter of the examination or continuing education requirement for license as a timeshare salesperson or timeshare broker; ~~and~~

(5) additional information included in a disclosure document; and

(6) fees established pursuant to 37-1-134."

Section 106. Section 37-60-304, MCA, is amended to read:

"37-60-304. Licenses -- application form and content. (1) Except as provided in 37-60-303(8), an

application for a license must be made on ~~a~~ an approved form ~~prescribed by the board~~ and accompanied by the application fee set by the board.

(2) An application must be made under oath and must include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, a private investigator, or a private security guard;

(e) one recent photograph of the applicant, of a type prescribed by the board, and two classifiable sets of the applicant's fingerprints;

(f) a statement of the applicant's age and experience qualifications; and

(g) other information, evidence, statements, or documents as may be prescribed by the rules of the board.

(3) The board shall verify the statements in the application and the applicant's moral character.

(4) The submittal of fingerprints ~~must be~~ is a prerequisite to the issuance of a license by means of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

(5) The board shall send written notification to the chief of police, sheriff, and county attorney in whose jurisdiction the principal office of the applicant is to be located that an application has been submitted."

Section 107. Section 37-66-304, MCA, is amended to read:

"37-66-304. (Temporary) Qualifications not required -- application for licensure. (1) A person wishing to practice landscape architecture in this state shall apply to the department for a license and successfully pass ~~a written~~ an examination ~~established~~ prescribed by the board.

(2) Each applicant must be admitted to the examination without prerequisite qualifications. (Terminates September 30, 2005--sec. 78, Ch. 492, L. 2001.)

37-66-304. (Effective October 1, 2005) Qualifications and application for licensure. (1) A person wishing to practice landscape architecture in this state shall apply to the department for a license.

(2) Each applicant for licensure must have successfully completed the educational, practical experience, and ~~written~~ examination requirements ~~established~~ prescribed by the board."

Section 108. Section 37-67-303, MCA, is amended to read:

"37-67-303. Application -- contents -- examination -- fees. (1) ~~Applications~~ An application for licensure must be on ~~forms prescribed by the board and~~ a form furnished by the department~~, must contain statements made under oath showing the applicant's education and~~ that provides for a detailed summary of the applicant's technical work~~,~~ and that must contain the required references.

(2) The application fee for an engineer intern is as prescribed by the board and must accompany the application. An additional fee is not required for the issuance of a certificate.

(3) The application fee for licensure as a professional engineer is as prescribed by the board for those holding ~~an~~ a board-approved engineer intern certificate ~~validated for Montana. For those holding a valid engineer intern certificate from some other state, the application fee is as prescribed by the board, which includes the cost of verification of engineer intern certification or licensure. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.~~

~~(4) The department, subject to approval by the board, may, on approval of the application and payment of an application fee as prescribed by the board, issue a license as a professional engineer to a person who holds a certificate of qualification or licensure issued to the person by the committee on national engineering certification of the national council of examiners for engineering and surveying or by a state, territory, or possession of the United States or by another country if the applicant's qualifications meet the requirements of this chapter and the rules of the board~~.

(4) An applicant for a license as a professional engineer shall file an application and satisfactorily pass an examination prescribed by the board. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.

(5) The application fee for a land surveyor intern is as prescribed by the board and must accompany the application. An additional fee is not required for issuance of a certificate.

(6) The application fee for licensure as a professional land surveyor is as prescribed by the board for those holding a board-approved land surveyor intern certificate ~~validated in Montana. For those holding a valid land surveyor intern certificate from some other state, the application fee is as prescribed by the board, which includes cost of verification of the certification~~. Upon approval of an application for licensure as a professional land surveyor and passage of the required ~~examination~~ examinations, the department shall issue a license as a professional land surveyor.

(7) (a) The application fee for licensure as both a professional engineer and professional land surveyor is as prescribed by the board for those holding board-approved engineer intern and land surveyor intern certificates ~~validated in Montana. For those holding valid engineer intern and land surveyor intern certificates from another jurisdiction, the application fee is as prescribed by the board~~.

(b) The fee must accompany the application. Upon approval of an application for licensure as a professional engineer and professional land surveyor and passage of the required examinations, the department shall issue a license.

(8) If the board denies the issuance of a license to any applicant, the initial fee deposited must be retained as an application fee."

Section 109. Section 37-67-321, MCA, is amended to read:

"37-67-321. Emeritus status. (1) A licensee who no longer practices engineering or land surveying may apply to the ~~board~~ department for emeritus status.

(2) Upon receiving an application for emeritus status accompanied by the fee established by the board, the ~~board~~ department shall issue a license of emeritus status to the applicant and record the applicant's name in the roster as an emeritus licensee, along with the date on which the licensee received emeritus status.

(3) An emeritus licensee may retain but may not use the licensee's seal and may not practice engineering or land surveying.

(4) The ~~board~~ department shall reissue a license to an emeritus licensee who pays all application fees, meets all current requirements for licensure, and demonstrates to the board's satisfaction that for the 2 years preceding the application for licensure, the applicant has met ~~the~~ requirements set by the board for maintaining professional competence ~~established under 37-67-315~~."

Section 110. Section 37-68-201, MCA, is amended to read:

"37-68-201. Organization -- meetings -- rulemaking power -- seal. (1) Each July, the board shall elect from its membership a president, vice president, and secretary-treasurer.

(2) The board shall meet quarterly and at other times ~~it~~ that the board considers necessary.

(3) The board ~~may~~ shall:

(a) adopt rules for the administration of this chapter~~,~~, for the licensing of electrical contractors~~,~~, and ~~for the examination and licensing of~~ for the examination of master and journeyman electricians;

(b) adopt a seal;

(c) cause the prosecution and enjoinder of persons violating this chapter."

Section 111. Section 37-68-304, MCA, is amended to read:

"37-68-304. Master electricians -- application -- qualifications -- ~~contents of~~ contents of examination -- fees. (1) An applicant for a master electrician's license shall furnish written evidence of being a graduate electrical engineer of an accredited college or university and of having 1 year of legally obtained practical electrical experience or that the applicant is a graduate of an electrical trade school and has at least 4 years of legally obtained practical experience in electrical work or has had at least 5 years of legally obtained practical experience in planning, laying out, or supervising the installation and repair of wiring, apparatus, or equipment for electrical light, heat, and power.

(2) ~~Applicants~~ An applicant for a license as a master electrician shall file an application on ~~forms prescribed by the board and~~ a form furnished by the department, submit appropriate fees, and satisfactorily pass an examination prescribed by the board. ~~The board shall, not less than 30 days prior to a scheduled examination, notify each applicant that the evidence submitted with the applicant's application is sufficient to qualify to take the examination or that the evidence is insufficient and is rejected. If the application is rejected, the board shall set forth the reasons in the notice to the applicant. The place of examinations must be designated by the board, and examinations must be held at least once a year and at other times as, in the opinion of the board, the number of applicants warrants.~~

~~(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the national electric code;~~

~~(b) cost estimating for electrical installments;~~

~~(c) procurement and handling of materials needed for electrical installations and repair;~~

~~(d) reading blueprints for electrical work;~~

~~(e) drafting and layout of electrical circuits; and~~

~~(f) knowledge of practical electrical theory.~~

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~ The board shall, not less than 30 days prior to a scheduled examination, notify each applicant that the evidence submitted with the applicant's application is

sufficient to qualify to take the examination or that the evidence is insufficient and is rejected. If the application is rejected, the board shall set forth the reasons in the notice to the applicant. The place of examinations must be designated by the board, and examinations must be held at least once a year and at other times as, in the opinion of the board, the number of applicants warrants.

(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:

(a) the national electric code;

(b) cost estimating for electrical installments;

(c) procurement and handling of materials needed for electrical installations and repair;

(d) reading blueprints for electrical work;

(e) drafting and layout of electrical circuits; and

(f) knowledge of practical electrical theory.

(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs."

Section 112. Section 37-68-305, MCA, is amended to read:

"37-68-305. Journeyman and residential electricians -- application -- qualifications -- contents of examination. (1) An applicant for a journeyman electrician's license shall furnish written evidence of at least 4 ~~years'~~ years of apprenticeship in the electrical trade or 4 ~~years'~~ years of legally obtained practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power. Applications for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~ The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:

(a) the Ohm's law;

(b) the national electric code; and

(c) layout and practical installation of electrical circuits.

(2) An applicant for a residential electrician's license shall furnish written evidence of at least 2 ~~years'~~ years of apprenticeship in the electrical trade or 2 ~~years'~~ years of legally obtained practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power in residential construction consisting of less than five living units in a single structure. Application for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~ The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:

(a) the Ohm's law;

(b) the national electric code; and

(c) layout and practical installation of electrical circuits."

Section 113. Section 37-68-307, MCA, is amended to read:

"37-68-307. Examination procedure -- third-party services ~~-- issuance of master, journeyman, or residential electrician's license -- expiration~~. ~~(1)~~ To ensure impartiality, the examination for either the residential, master's, or journeyman's license must be administered by the department. The department may use a third party to provide examination and grading services. The examination passing grade is 75%.

~~(2) If it is determined that the applicant has passed the examination, the department shall issue to the applicant a license that authorizes the licensee to engage in the business, trade, or calling of a residential electrician, journeyman electrician, or master electrician.~~

~~(3) Each original license expires on the renewal date established by the department by rule if it is not more than 3 years after the date of issuance.~~"

Section 114. Section 37-68-310, MCA, is amended to read:

"37-68-310. ~~License renewal period -- renewal~~ Renewal of lapsed licenses. (1) ~~Licenses of~~

~~residential electricians, journeyman electricians, or master electricians, unless they have been suspended or revoked by the board or unless the department changes the duration of the renewal period, must be renewed for a period of 3 years by the department on application for renewal made to the department on or before the renewal date set by department rule and on the payment of a renewal fee. If application for renewal is not made on or before the renewal date, an additional fee prescribed by board rule must be paid.~~ It is unlawful for a person who refuses or fails to pay the renewal fee to practice electrical work in this state. A person with a lapsed license may be issued a renewal license without examination if the applicant pays the original renewal fee and any delinquency fee within 1 year of the license expiration date. Subject to subsection (2), a lapsed license that is not renewed within 1 year following its expiration date may not be renewed unless the applicant passes the examination and pays the fee required for an original license.

(2) This section may not be interpreted to conflict with 37-1-138."

Section 115. Section 37-68-312, MCA, is amended to read:

"37-68-312. Electrical contractor's license -- application ~~-- issuance~~ -- fees ~~-- renewal~~. Each electrical contractor shall, on or before the date set by department rule, file with the department an application ~~in writing~~ together with the appropriate fees for each firm operated by the electrical contractor in this state ~~for renewal of the license. A license may not be issued or renewed until the applicant meets the licensure requirements and has paid to the department a license fee set by the board for each firm operated by the electrical contractor. Licenses must bear the date of issuance or renewal. A license must be renewed for a 3-year period upon payment to the department of the license fee on or before the renewal date and upon meeting the requirements set by board rule~~."

Section 116. Section 37-69-304, MCA, is amended to read:

"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by applicants for a journeyman plumber's license:

(a) a specific record of 5 ~~years'~~ years of legally obtained experience in the field of plumbing ~~of a character satisfactory to the board~~. This experience requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or pay records, or by completing an apprenticeship program meeting the standards set by the department ~~of labor and industry~~ or the United States department of labor,

bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of an examination ~~conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing~~ prescribed by the board conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board.

~~(3) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~

~~(4) The department may use a third party to provide examination and grading services.~~"

Section 117. Section 37-69-305, MCA, is amended to read:

"37-69-305. Qualifications of applicants for master plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by an applicant for a master plumber's license:

(a) evidence of 4 ~~years'~~ years of experience as a licensed journeyman plumber in the field of plumbing, verified by time or pay records of actual plumbing experience;

(b) evidence of 3 ~~years'~~ years of experience working with a licensed master plumber or in a supervisory capacity in the field of plumbing, which may run concurrently with the requirement in subsection (1)(a); and

(c) satisfactory completion of an examination ~~for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing~~ prescribed by the board for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing.

(2) For purposes of subsection (1), ~~a year's~~ 1 year of experience is 1,500 hours or more of work in a continuous 12-month period.

(3) A master plumber may not allow the master plumber's license to be used by any person or firm,

corporation, or business other than the master plumber's own for the purpose of obtaining permits or for doing plumbing work under the license.

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.~~

~~(5) The department may use a third party to provide examination and grading services.~~"

Section 118. Section 37-69-306, MCA, is amended to read:

"37-69-306. Examination -- issuance of license. (1) An applicant for a license to work in the field of plumbing ~~shall be examined as to his qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine his skill and qualifications as a master plumber or journeyman plumber.~~

~~(2) The applicant~~ must be examined as to the applicant's qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine the applicant's skill and qualifications as a master plumber or journeyman plumber.

(2) The applicant must, upon successfully passing ~~the~~ an examination prescribed by the board, ~~shall~~ be issued a license authorizing ~~him~~ the applicant to engage in the field of plumbing as a master plumber or journeyman plumber in the state of Montana.

~~(3)~~(3) In the case of a firm or corporation, the examination and issuance of a license to an individual of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master plumbers but not as to journeyman plumbers. ~~No~~ An individual, firm, or corporation may not do the work of a master plumber unless licensed under this chapter.

~~(4)~~(4) In addition to the temporary permits authorized in 37-1-305, the ~~board~~ board may, ~~on a case-by-case basis at the board's discretion and~~ on a case-by-case basis at the board's discretion in accordance with criteria determined by ~~the board~~ the board, renew a temporary practice permit for a person who fails the first license examination for which the person is eligible ~~but who submits a temporary practice permit renewal application to the board stating that the person intends to retake the license examination on the next available date~~."

Section 119. Section 37-69-401, MCA, is amended to read:

"37-69-401. Medical gas piping installation endorsement. (1) A medical gas piping installation

endorsement entitles the holder to install pipe used solely for transporting gases used for medical purposes.

(2) To be eligible for endorsement under this section, a person must meet all requirements for endorsements established by the board by rule.

(3) A person with a valid medical gas piping installation endorsement from another state may install medical gas piping in this state.

(4) The board shall by rule establish the requirements for obtaining a medical gas piping installation endorsement. ~~Fees must be established by rule and must be commensurate with the costs of administering the medical gas piping installation endorsement program.~~"

Section 120. Section 37-72-102, MCA, is amended to read:

"37-72-102. Penalty -- injunction. (1) A person convicted of violating any provision of this chapter or the rules of the department is guilty of a misdemeanor and shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed $500, or both.

(2) The district court may enjoin any violation or threatened violation of the requirements of 37-72-101, 37-72-201, 37-72-202, ~~or~~ 37-72-301 ~~through~~, 37-72-302, 37-72-304, 37-72-305, or 37-72-307 or the rules of the department as a nuisance per se; and the department, the attorney general, or any county attorney may institute proceedings for an injunction."

Section 121. Section 37-72-202, MCA, is amended to read:

"37-72-202. General rulemaking power. The department shall adopt rules to:

(1) implement the training and experience requirements of 37-72-302;

(2) prescribe the amount of the fees provided for in 37-72-301 ~~and 37-72-303 through 37-72-306~~, 37-72-304, and 37-72-305, which must be nonrefundable, in an amount commensurate with the cost of administering this chapter, and deposited in the state special revenue fund for the use of the department;

(3) regulate the use of explosives and grant variances under the provisions of 37-72-201, except that, unless the department is making an investigation under 37-72-203(2), the department does not have the power under this chapter to make inspections into construction blasting and may not adopt rules providing for ~~such~~ inspections related to construction blasting or for inspectors to carry out ~~such~~ inspections related to construction blasting;

(4) provide for the form of the license and pocket card provided for in 37-72-307; and

(5) provide for the conduct of the business of the department under this chapter and govern ~~its~~ department proceedings under 37-72-203."

Section 122. Section 37-72-305, MCA, is amended to read:

"37-72-305. Licensure of persons licensed by other jurisdictions. Upon receipt of an application and application fee, the department shall issue a license to any person fulfilling the requirements of 37-72-301(2)(a) through (2)(d) who holds a certificate, license, or permit, issued by another state or any agency of the United States, allowing the person to supervise or engage in the practice of construction blasting if the department finds that the certificate, license, or permit was issued upon the satisfactory completion of requirements substantially equivalent to the requirements of 37-72-301 ~~through 37-72-303~~ and 37-72-302."

Section 123. Section 37-76-109, MCA, is amended to read:

"37-76-109. Registration and renewal fees. (1) An application for registration or renewal of registration must be accompanied by a fee ~~of $200~~.

(2) All fees and money received by the department must be deposited in ~~a~~ the state special revenue fund in an account for use by the department in performing the duties required by this chapter."

Section 124. Section 50-16-201, MCA, is amended to read:

"50-16-201. Definitions. As used in this part, the following definitions apply:

(1) (a) "Data" means written reports, notes, or records or oral reports or proceedings created by or at the request of a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee of a health care facility that are used exclusively in connection with quality assessment or improvement activities, including the professional training, supervision, or discipline of a medical practitioner by a health care facility.

(b) The term does not include:

(i) incident reports or occurrence reports; or

(ii) health care information that is used in whole or in part to make decisions about an individual who is the subject of the health care information.

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) (a) "Incident reports" or "occurrence reports" means a written business record of a health care facility,

created in response to an untoward event, such as a patient injury, adverse outcome, or interventional error, ~~in order to ensure~~ for the purpose of ensuring a prompt evaluation of the event.

(b) The terms do not include any subsequent evaluation of the event in response to an incident report or occurrence report by a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee.

(4) "Medical practitioner" means an individual licensed by the state of Montana to engage in the practice of medicine, osteopathy, podiatry, optometry, or a nursing specialty described in 37-8-202~~(5)~~ or licensed as a physician assistant-certified pursuant to 37-20-203."

Section 125. Section 50-74-312, MCA, is amended to read:

"50-74-312. Review of license rejection -- waiting period. (1) An applicant for a license under the provisions of this chapter whose application has been rejected may, within 45 days after the date of the rejection, set forth in writing any arguments opposing the rejection and request a review by the department. The request must be addressed to the department and must be signed by the applicant.

(2) Within 2 days after receiving the request, the department shall notify the applicant in writing that on a certain day, not less than 5 days or more than 30 days after receipt of the written request, the department shall review and evaluate the application and any arguments opposing the rejection of the license application.

(3) The applicant may appear in person at the review. At least 2 days before the day set for the review, the applicant may designate in writing to the department ~~of labor and industry~~ the name of an engineer holding a valid license of equal or higher grade than the one applied for, and the engineer may testify on behalf of the applicant at the review.

(4) After the review, if the department ~~of labor and industry~~ determines that the applicant is entitled to the license, the department shall issue the license. If the department affirms the decision to not issue the license, the applicant ~~is required to~~ may reapply to take the license examination, as provided in ~~50-74-309 and~~ 50-74-311, and may not take the examination within 45 days of the final decision to not issue the license."

Section 126. Section 80-8-207, MCA, is amended to read:

"80-8-207. Dealers. (1) ~~It is unlawful for a~~ A person ~~to~~ may not sell, offer for sale, deliver, or have delivered within the state a pesticide without first obtaining a license from the department for each calendar year or portion of a year. A separate dealer's license and fee is required for each location or outlet from which

pesticides are distributed, sold, held for sale, or offered for sale. Pesticide field personnel or salespeople employed directly out of the same location or outlet and under a licensed dealer are not required to obtain a license. The dealer shall furnish the department with the names and addresses of ~~its~~ the dealer's field personnel and salespeople selling pesticides within the state.

(2) The application for a license must be accompanied by a fee of $45. ~~Dealers~~ A dealer applying for renewal of a license shall ~~do so~~ apply on or before March 1 of the calendar year. A dealer applying for renewal of a license after March 1 must be assessed a $25 late licensing fee.

(3) The dealer shall require the purchaser of a restricted pesticide to exhibit the purchaser's license or permit issued under authority of this chapter, or the dealer may verify, under procedures authorized by the department, the purchaser's license or permit through a department list or by electronic means before completing a sale. The department may adopt rules concerning dealer verification of licenses and permits.

(4) The department shall assess an additional annual license fee of $10 on dealers to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than $10 a year or more than $15 a year. Fees collected under this subsection must be deposited in an account in the state special revenue ~~account~~ fund pursuant to 80-8-112.

(5) Pharmacists licensed as provided for in 37-7-302 ~~and 37-7-303~~, veterinarians licensed as provided for in 37-18-302 ~~and 37-18-303~~, and certified pharmacies licensed under 37-7-321 are not required to be licensed to sell pesticides~~, provided that~~ if the certified pharmacies and veterinarians register with the department each year. However, the certified pharmacies and veterinarians ~~shall~~ must meet all other requirements concerning the commercial sale of pesticides. The department shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

Section 127. Repealer. Sections 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310,

37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, and 50-76-105, MCA, are repealed.

Section 128. Effective date. [This act] is effective July 1, 2005.

- END -

I hereby certify that the within bill,
HB 0182, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2019.

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 182

INTRODUCED BY ROBERTS

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

AN ACT GENERALLY REVISING AND CONSOLIDATING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; DISTINGUISHING BETWEEN DEPARTMENT AND BOARD OR PROGRAM DUTIES REGARDING LICENSURE, EXAMINATION, AND FEES; CLARIFYING THE DETERMINATION AND DISTRIBUTION OF FEES FOR LICENSURE, EXAMINATION, AND ADMINISTRATIVE COSTS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO HANDLE CERTAIN TASKS RELATED TO BOARDS, INCLUDING MONITORING OF LICENSING BOARDS' CASH BALANCES AND HIRING SERVICES FOR BOARDS; ALLOWING FOR FEE ADJUSTMENTS; REQUIRING STANDARDIZATION OF FORMS; INCLUDING DEPARTMENT PROGRAMS UNDER CERTAIN PROVISIONS APPLICABLE TO BOARDS; SETTING UNIFORM STANDARDS FOR LICENSE RENEWALS, INCLUDING RENEWAL PERIODS; REVISING CERTAIN NOTIFICATION PERIODS; REMOVING SPECIFIC BOARD OR PROGRAM REFERENCES IF DUTIES ARE ASSIGNED TO THE DEPARTMENT OR PROVIDED GENERALLY TO ALL BOARDS; REMOVING THE REQUIREMENT TO PUBLISH AN ANNUAL LIST OF SOCIAL WORKERS AND PROFESSIONAL COUNSELORS; REMOVING CERTAIN SPECIFIED LICENSING PERIODS; REMOVING THE PUBLICATION REQUIREMENT FOR OUTFITTERS' NAMES AND ADDRESSES; REPEALING CERTAIN BOARD-SPECIFIC OR PROGRAM-SPECIFIC REFERENCES TO LICENSURE, EXAMINATIONS, AND FEES; AMENDING SECTIONS 23-3-501, 23-4-105, 23-4-201, 27-12-206, 33-30-1013, 37-1-101, 37-1-104, 37-1-105, 37-1-121, 37-1-130, 37-1-131, 37-1-134, 37-1-141, 37-1-302, 37-1-306, 37-1-307, 37-2-101, 37-3-203, 37-3-211, 37-3-301, 37-3-305, 37-3-306, 37-3-307, 37-3-309, 37-3-311, 37-3-313, 37-3-341, 37-3-342, 37-3-343, 37-3-344, 37-3-347, 37-4-301, 37-4-307, 37-4-402, 37-4-406, 37-6-304, 37-7-104, 37-7-302, 37-7-321, 37-7-605, 37-7-606, 37-8-102, 37-8-202, 37-8-204, 37-9-304, 37-9-305, 37-10-302, 37-10-304, 37-11-201, 37-11-304, 37-12-201, 37-12-302, 37-13-302, 37-14-306, 37-16-202, 37-16-405, 37-17-302, 37-18-202, 37-19-401, 37-19-702, 37-19-807, 37-20-301, 37-20-302, 37-22-201, 37-22-301, 37-22-302, 37-23-101,37-23-202, 37-23-203, 37-23-206, 37-24-202, 37-24-303, 37-24-310, 37-25-201, 37-26-201, 37-26-403, 37-27-105, 37-27-210, 37-28-104, 37-28-202, 37-29-306, 37-31-203, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, 37-34-201, 37-34-305, 37-35-103, 37-40-302, 37-42-304, 37-42-308, 37-47-101, 37-47-201, 37-47-304, 37-50-304, 37-51-204, 37-51-303, 37-51-305, 37-51-603, 37-53-104, 37-60-304, 37-66-304, 37-67-303, 37-67-321, 37-68-201, 37-68-304, 37-68-305, 37-68-307, 37-68-310, 37-68-312, 37-69-304,

37-69-305, 37-69-306, 37-69-401, 37-72-102, 37-72-202, 37-72-305, 37-76-109, 50-16-201, 50-74-312, AND 80-8-207, MCA; REPEALING SECTIONS 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, AND 50-76-105, MCA; AND PROVIDING AN EFFECTIVE DATE.

Exported Data

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
04/29/05	Chapter Number Assigned				
04/28/05	(H) Signed by Governor				
04/19/05	(H) Transmitted to Governor				
04/19/05	(S) Signed by President				
04/18/05	(H) Signed by Speaker				
04/14/05	(C) Printed - New Version Available				
04/14/05	(H) Returned from Enrolling				
04/12/05	(H) Sent to Enrolling				
04/12/05	(H) 3rd Reading Passed as Amended by Senate		89	8	
04/12/05	(H) Scheduled for 3rd Reading				
04/11/05	(H) 2nd Reading Senate Amendments Concurred		98	2	
04/11/05	(H) Scheduled for 2nd Reading				
03/12/05	(S) Returned to House with Amendments				
03/12/05	(S) 3rd Reading Concurred		48	0	
03/12/05	(S) Scheduled for 3rd Reading				
03/11/05	(S) 2nd Reading Concurred on Voice Vote		50	0	
03/11/05	(S) Scheduled for 2nd Reading				
03/10/05	(C) Printed - New Version Available				
03/10/05	(S) Committee Report--Bill Concurred as Amended	(S) Business, Labor, and Economic Affairs			
03/10/05	(S) Committee Executive Action--Bill Concurred as Amended	(S) Business, Labor, and Economic Affairs	11	0	
03/08/05	(S) Hearing	(S) Business, Labor, and Economic Affairs			
02/22/05	(S) Referred to Committee	(S) Business, Labor, and Economic Affairs			
02/22/05	(S) First Reading				
02/07/05	(H) Transmitted to Senate				
02/07/05	(H) 3rd Reading Passed		88	9	
02/07/05	(H) Scheduled for 3rd Reading				
02/05/05	(H) 2nd Reading Passed		89	10	
02/05/05	(H) Scheduled for 2nd Reading				
02/04/05	(H) Scheduled for 2nd Reading				
02/03/05	(C) Printed - New Version Available				

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
02/02/05	(H) Committee Report--Bill Passed as Amended	(H) Business and Labor			
02/02/05	(H) Committee Executive Action--Bill Passed as Amended	(H) Business and Labor	17	1	
01/17/05	(H) Hearing	(H) Business and Labor			
01/10/05	(H) Fiscal Note Received				
01/05/05	(H) Referred to Committee	(H) Business and Labor			
12/28/04	(H) Fiscal Note Requested				
12/22/04	(C) Introduced Bill Text Available Electronically				
12/22/04	(H) Introduced				
12/21/04	(C) Pre-Introduction Letter Sent				
12/21/04	(C) Draft in Assembly/Executive Director Review				
12/20/04	(C) Draft in Final Drafter Review				
12/17/04	(C) Bill Draft Text Available Electronically				
12/17/04	(C) Draft in Input/Proofing				
12/17/04	(C) Draft to Drafter - Edit Review [SAB]				
12/16/04	(C) Draft in Edit				
12/10/04	(C) Draft in Legal Review				
11/17/04	(C) Draft to Requester for Review				
07/19/04	(C) Draft Request Received				

FISCAL NOTE

Bill #: HB0182 **Title:** Generally revise professional and occupational licensing laws

Primary Sponsor: Roberts, D **Status:** As Introduced

Sponsor signature Date David Ewer, Budget Director Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
General Fund	$0	$0
Revenue:		
General Fund	$0	$0
Net Impact on General Fund Balance:	$0	$0

☐ Significant Local Gov. Impact ☐ Technical Concerns

☐ Included in the Executive Budget ☐ Significant Long-Term Impacts

☐ Dedicated Revenue Form Attached ☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Labor and Industry

1. HB 182 addresses concerns raised by the Legislative Audit Division to revise and update administrative policies, develop standardized procedures for the management of information, and establish management procedures to assess progress.
2. The bill authorizes the department to establish uniform administrative service fees common to all boards and programs. Variations in administrative service fees have occurred because currently existing statutes provide for a variety of methods in setting fees. HB 182 requires that the standardized fees be commensurate with costs under the uniform licensing act (Title 37, Chapter 1, MCA).
3. HB 182 authorizes the department to establish standard administrative fees for such things as license verification, duplicate licenses, and copies. Fees established will be consistent for all boards.
4. The standardization contemplated by the bill will be completed using existing resources so there is no fiscal impact to the department.

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80-8-207, MCA; REPEALING SECTIONS 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, AND 50-76-105, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-3-501, MCA, is amended to read:

"23-3-501. Licenses -- fees. (1) The board may issue a license to a professional or semiprofessional boxing or wrestling promoter, whether an individual or organization, for the sole purpose of conducting professional or semiprofessional matches or exhibitions.

(2) The board may issue licenses to qualified referees, managers, boxers, wrestlers, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, ~~commensurate with costs for that license,~~ as provided in 37-1-134, ~~as~~ set by the board."

Section 2. Section 23-4-105, MCA, is amended to read:

"23-4-105. Authority of board. The board shall~~, subject to 37-1-101 and 37-1-121,~~ license and regulate racing and review race meets held in this state under this chapter. All percentages withheld from amounts wagered must be deposited in the board's agency fund account. The board shall then distribute all funds collected under 23-4-202(4)(d), 23-4-204(3), and 23-4-302(3) to live race purses or for other purposes for the good of the existing horseracing industry. If the board decides to authorize new forms of racing, including new forms of simulcast racing, not currently engaged in Montana, ~~it~~ the board shall do so after holding public hearings to

determine the effects of these forms of racing on the existing saddle racing program in Montana. The board ~~should~~ shall consider both the economic and safety impacts on the existing racing and breeding industry."

Section 3. Section 23-4-201, MCA, is amended to read:

"23-4-201. Licenses. (1) ~~It is unlawful for a~~ A person ~~to~~ may not hold a race meet, including simulcast race meets under the parimutuel system, in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall file with the department an application ~~with the department which shall~~ that must set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet ~~shall~~ must be licensed and charged an annual fee set by the board~~, which shall~~ . The annual fee must be paid to the department and used for expenses of administering this chapter~~, subject to 37-1-101(6)~~. Each person holding a license under this chapter shall comply with this chapter and with the rules adopted and orders issued by the board.

(3) A license may not be issued to a person who has failed to pay the fees, taxes, or money required under this chapter.

(4) ~~Applications~~ An application to hold a race ~~meets shall~~ meet must be submitted to the department, and the board shall act on the ~~applications~~ application within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board and an independent racing association conducting a race ~~meets~~ meet comply with the requirements of the rules adopted by the board before granting a license.

(6) A racing association consisting of a local fair board or an association approved by a local fair board may apply for a license to hold a simulcast race meet in a simulcast facility.

(7) An unexpired license held by a person who violates this chapter or who fails to pay to the department the sums required under this chapter is subject to cancellation and revocation by the board."

Section 4. Section 27-12-206, MCA, is amended to read:

"27-12-206. Funding. (1) There is a pretrial review fund to be administered by the director for the purposes stated in this chapter. The fund and any income from it must be held in trust, deposited in an account, and invested and reinvested by the director. The fund may not become part of or revert to the general fund of this state but is subject to auditing by the legislative auditor. Money from the assessments levied under this section

must be deposited in the fund.

(2) For each fiscal year, beginning July 1, an annual assessment is levied on all chiropractic physicians. The amount of the assessment must be annually set by the director and equally assessed against all chiropractic physicians. A fund surplus at the end of a fiscal year that is not required for the administration of this chapter must be retained by the director and used to finance the administration of this chapter during the next fiscal year, in which event the director shall reduce the next annual assessment to an amount estimated to be necessary for the proper administration of this chapter during that fiscal year.

(3) The annual assessment must be paid on or before the date that the chiropractic physician's annual renewal fee under ~~37-12-307~~ 37-1-134 is due. An unpaid assessment bears a late charge fee of $25. The late charge fee is part of the annual assessment. The director has the same powers and duties in connection with the collection of and failure to pay the annual assessment as the department of labor and industry has under ~~37-12-307~~ 37-1-134 with regard to a chiropractic physician's annual license fee. However, nothing in this section may be interpreted to conflict with 37-1-138."

Section 5. Section 33-30-1013, MCA, is amended to read:

"33-30-1013. Coverage required for services provided by nurse specialists. A health service corporation shall provide, in group and individual insurance contracts, coverage for health services provided by a nurse specialist, as specifically listed in 37-8-202~~(5)~~, if health care services that nurse specialists are licensed to perform are covered by the contract."

Section 6. Section 37-1-101, MCA, is amended to read:

"37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department of labor and industry ~~may~~ shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, ~~taking~~ receiving and processing routine applications for licenses as defined by a board, issuing and ~~denying licenses granted by the boards,~~ renewing routine licenses as defined by a board, disciplining licensees, ~~registering,~~ setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing;

(2) standardize policies and procedures and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for ~~the~~ all meetings, hearings, and examinations

of each board or elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board ~~or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination~~;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department;

(6) assess the costs of the department to the boards and programs on an equitable basis as determined by the department;

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's ~~licensing~~ board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(e);

(9) provide notice to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner;

(10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary; and

(11) establish policies and procedures to set fees for administrative services, as provided in 37-1-134, commensurate with the cost of the services provided. Late penalty fees may be set without being commensurate with the cost of services provided."

Section 7. Section 37-1-104, MCA, is amended to read:

"37-1-104. Standardized forms. ~~It is the responsibility of the~~ The department ~~whenever possible to~~ shall adopt standardized ~~application, license, and other~~ forms and processes to be used by the boards and department programs ~~within the department~~. The standardization is to streamline processes, expedite services, reduce costs~~,~~ and waste, and ~~the use of out-of-date forms and~~ facilitate ~~automated printing and~~ computerization."

Section 8. Section 37-1-105, MCA, is amended to read:

"37-1-105. Reporting disciplinary actions against licensees. The department has the authority and shall require that all ~~licensing~~ boards and department programs ~~within the department~~ require ~~all applicants~~ each applicant for licensure or renewal to report any legal or disciplinary ~~actions~~ action against ~~them~~ the applicant that

~~relate~~ relates to the propriety of the ~~applicants'~~ applicant's practice of or ~~their~~ fitness to practice the profession or occupation for which ~~they seek~~ the applicant seeks licensure. Failure to furnish the required information, except pursuant to 37-1-138, or the filing of false information is grounds for denial or revocation of a license."

Section 9. Section 37-1-121, MCA, is amended to read:

"37-1-121. Duties of commissioner. In addition to the powers and duties under 2-15-112 and 2-15-121, the commissioner of labor and industry shall:

(1) at the request of a party, appoint an impartial hearings examiner to conduct hearings ~~before each board within the department~~ whenever any board or department program holds a contested case hearing. The hearings examiner shall conduct hearings in a proper and legal manner.

(2) establish the qualifications of and hire all personnel to perform the administrative, legal, and clerical functions of the department for the boards. Boards within the department do not have authority to establish the qualifications of, hire, or terminate personnel. The department shall consult with the boards regarding recommendations for qualifications for executive or executive director positions.

(3) approve all contracts and expenditures by boards within the department. A board within the department may not enter into a contract or expend funds without the approval of the commissioner."

Section 10. Section 37-1-130, MCA, is amended to read:

"37-1-130. Definition. As used in this part, ~~"board" means each board in this title~~ the following definitions apply:

(1) "Administrative fee" means a fee established by the department to cover the cost of administrative services as provided for in 37-1-134.

(2) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is ~~allocated~~ administratively attached to the department ~~of labor and industry~~ as provided in 2-15-121.

(3) "Board fee" means:

(a) a fee established by the board to cover program area costs as provided in 37-1-134; and

(b) any other legislatively prescribed fees specific to boards and department programs.

(4) "Department" means the department of labor and industry established in 2-15-1701.

(5) "Department program" means a program administered by the department pursuant to this title and

not affiliated with a board.

(6) "Expired license" means a license that is not reactivated within the period of 45 days to 2 years after the renewal date for the license.

(7) "Lapsed license" means a license that is not renewed by the renewal date and that may be reactivated within the first 45-day period after the renewal date for the license.

(8) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation.

(9) "Terminated license" means a license that is not renewed or reactivated within 2 years of the license lapsing."

Section 11. Section 37-1-131, MCA, is amended to read:

"37-1-131. Duties of boards -- quorum required. ~~Each~~ A quorum of each board within the department shall:

(1) set and enforce standards and rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within ~~its~~ the board's jurisdiction;

(2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within ~~its~~ the board's jurisdiction. The hearings must be conducted by a ~~hearing~~ hearings examiner when required under 37-1-121~~(1)~~.

(3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

(4) pay to the department ~~its~~ the board's pro rata share of the assessed costs of the department under 37-1-101(6);

(5) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available.

(6) A board, board panel, or subcommittee convened to conduct board business must have a majority of its members, which constitutes a quorum, present to conduct business.

(7) The board or the department program may:

(a) establish the qualifications of applicants to take the licensure examination;

(b) determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination;

(c) examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations; and

(d) require continuing education for licensure as provided in 37-1-306. If the board or department requires continuing education for continued licensure, the board or department may not audit or verify continuing education requirements as a precondition for renewing the license, certification, or registration. The board or department may conduct random audits of up to 50% of all licensees with renewed licenses for documentary verification of the continuing education requirement after the renewal period closes.

(8) A board may, at the board's discretion, request the applicant to make a personal appearance before the board for nonroutine license applications as defined by the board."

Section 12. Section 37-1-134, MCA, is amended to read:

"37-1-134. ~~Licensing boards to establish fees~~ Fees commensurate with costs. ~~All~~ Each ~~licensing boards~~ board allocated to the department shall set board fees ~~reasonably~~ related to the respective program area that are commensurate with costs for licensing, including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits. A board may set an examination fee that must be commensurate with costs. A board that issues endorsements and licenses specialties shall set respective fees commensurate with costs. Unless otherwise provided by law, ~~each board within~~ the department may establish standardized fees, including but not limited to fees for ~~program areas such as application, examination, renewal, reciprocity, late renewal, and continuing education~~ administrative services such as license verification, duplicate licenses, late penalty renewals, licensee lists, and other administrative service fees determined by the department as applicable to all boards and department programs. The department shall collect administrative fees on behalf of each board or department program and deposit the fees in the state special revenue fund in the appropriate account for each board or department program. ~~Board~~ Administrative service costs not related to a specific board or program area may be equitably distributed to board or program areas as determined by the ~~board~~ department. Each board and department program shall maintain records sufficient to support the fees charged for each program area."

Section 13. Section 37-1-141, MCA, is amended to read:

"37-1-141. ~~Nonrenewal of license for three years~~ License renewal -- lapse -- expiration -- termination. (1) The renewal date for a license must be set by department rule. The department shall provide notice prior to the renewal date.

(2) To renew a license, a licensee shall submit a completed renewal form, comply with all certification and continuing education requirements, and remit renewal fees before the end of the renewal period.

(3) A licensee may reactivate a lapsed license within 45 days after the renewal date by following the process in subsection (5) and complying with all certification and educational requirements.

(4) A licensee may reactivate an expired license within 2 years after the renewal date by following the process in subsection (5) and complying with all certification and education requirements that have accrued since the license was last granted or renewed as prescribed by board or department rule.

(5) To reactivate a lapsed license or an expired license, in addition to the respective requirements in subsections (3) and (4), a licensee shall:

(a) submit the completed renewal form;

(b) pay the late penalty fee provided for in subsection (7); and

(c) pay the current renewal fee as prescribed by the department or the board.

(6) (a) A licensee who practices with a lapsed license is not considered to be practicing without a license.

(b) A licensee who practices after a license has expired is considered to be practicing without a license.

(7) The department may assess a late penalty fee for each renewal period in which a license is not renewed. The late penalty fee need not be commensurate with the costs of assessing the fee.

(8) Unless otherwise provided by statute or rule, ~~a lapsed~~ an occupational or professional license that is not renewed within ~~3~~ 2 years of the most recent renewal date automatically terminates. The terminated license may not be ~~reinstated~~ reactivated, and a new original license must be obtained ~~by passing a qualifying examination and paying the appropriate fee~~.

(9) The department or board responsible for licensing a licensee retains jurisdiction for disciplinary purposes over the licensee for a period of 2 years after the date on which the license lapsed.

(10) This section may not be interpreted to conflict with 37-1-138."

Section 14. Section 37-1-302, MCA, is amended to read:

"37-1-302. Definitions. As used in this part, the following definitions apply:

(1) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.

(2) "Complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(3) "Department" means the department of labor and industry.

(4) "Inspection" means the periodic examination of premises, equipment, or procedures or of a practitioner by the department to determine whether the practitioner's profession or occupation is being conducted in a manner consistent with the public health, safety, and welfare.

(5) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a written complaint or other information before a board, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the board;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether a board should seek an injunction.

(6) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation~~, regardless of the specific term, such as permit, certificate, recognition, or registration, used for the permission~~.

(7) "Profession" or "occupation" means a profession or occupation regulated by a board."

Section 15. Section 37-1-306, MCA, is amended to read:

"37-1-306. Continuing education. A board or, for programs without a board, the department may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education."

Section 16. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board authority. (1) A board may:

(a) hold hearings as provided in this part;

(b) issue subpoenas requiring the attendance of witnesses or the production of documents and administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must

be relevant to the complaint~~, issued by a majority vote of board members not serving on the screening panel described in subsection (1)(e),~~ and must be signed by ~~the presiding officer~~ a member of the board. Subpoenas may be enforced as provided in 2-4-104.

(c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under this part;

~~(d) compel attendance of witnesses and the production of documents. Subpoenas may be enforced as provided in 2-4-104.~~

~~(e)~~(d) establish a screening panel ~~that determines~~ to determine whether there is reasonable cause to believe that a licensee has violated a particular statute, rule, or standard justifying disciplinary proceedings. A screening panel shall specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.

~~(f)~~(e) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding ~~its~~ the board's licensees and license applicants and regarding possible unlicensed practice.

[(3) Each board shall require a license applicant to provide the applicant's social security number as a part of the application. Each board shall keep the social security number from this source confidential, except that a board may provide the number to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 17. Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which the medical practitioner maintains an office for professional practice.

(2) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans;

(b) to affect the structure or any function of the body of humans.

(3) "Drug" has the same meaning as provided in 37-7-101.

(4) "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs~~; but the~~. The term does not include a pharmacy.

(5) "Medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, podiatry, optometry, or a nursing specialty as described in 37-8-202~~(5)~~ and in the licensed practice to administer or prescribe drugs.

(6) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.

(7) "Pharmacy" has the same meaning as provided in 37-7-101.

(8) "State" means the state of Montana or any political subdivision of the state."

Section 18. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. The board may:

(1) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair, impartial, and nondiscriminatory.

(2) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(3) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter;

(4) establish a program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental or chronic physical illness;

~~(5) select an executive secretary to be hired by the department to:~~

~~(a) provide services to the board in connection with the board's duties under this chapter;~~

~~(b) assist in prosecution and matters of license discipline under this chapter; and~~

~~(c) administer the board's affairs;~~ and

~~(6)~~(5) fund additional staff, hired by the department, to administer the provisions of this chapter, by

increasing license fees as necessary."

Section 19. Section 37-3-211, MCA, is amended to read:

"37-3-211. Executive secretary. To perform ~~the~~ services ~~provided for in 37-3-203(5)~~ to the board in connection with the board's duties under this chapter, assist in prosecution and matters of license discipline, and administer the board's affairs, the department shall hire an executive secretary ~~selected by the board~~."

Section 20. Section 37-3-301, MCA, is amended to read:

"37-3-301. License required -- kinds of certificates. (1) Before being issued a license, an applicant may not engage in the practice of medicine in this state.

(2) The department may issue four forms of certificates of licensure under the board's seal~~:~~, which include the physician's certificate, the restricted certificate, the temporary certificate, and the telemedicine certificate issued in accordance with 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349. The physician's certificate and the restricted certificate must be signed by the president, but the temporary certificate may be signed by any board member. The board shall decide which certificate to issue. These certificates must be designated as:

(a) a physician's certificate, which is subject to renewable registration in accordance with department rules;

(b) a restricted certificate;

(c) a temporary certificate, which is subject to specifications and limitations imposed by the board; and

(d) a telemedicine certificate."

Section 21. Section 37-3-305, MCA, is amended to read:

"37-3-305. Qualifications for licensure. (1) Except as provided in subsections (4) and (5), a person may not be granted a physician's license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program;

(d) has ~~had~~ submitted a completed application ~~file reviewed by a board member and, at the discretion~~

~~of the board member, has made a personal appearance before the board~~; and

(e) is able to communicate, in the opinion of the board, in the English language.

(2) The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified.

(3) A person may not be granted a temporary license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program; and

(d) is able, in the opinion of the board, to communicate in the English language.

(4) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or in the opinion of the board has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with the Montana family practice residency program; and

(c) is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state.

(5) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with a program accredited by the accreditation council for graduate medical education or the American osteopathic association;

(c) in the course of an approved rotation of the person's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state;

(d) makes application to the department on ~~a~~ an approved form ~~prescribed by the board~~; and

(e) pays a fee set by the board, as provided in 37-3-308."

Section 22. Section 37-3-306, MCA, is amended to read:

"37-3-306. Physician's certificate -- examination -- reciprocity and endorsement. (1) The board may authorize the department to issue to an applicant a physician's certificate, certificate by reciprocity, or certificate

by endorsement only on the basis of:

(a) passing an approved examination ~~given and graded by the department~~, subject to 37-1-101;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of examiners for osteopathic physicians and surgeons, incorporated, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by this board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were, in the judgment of the board, essentially equivalent to those of this state for granting a license to practice medicine, if under the scope of the license or certificate the applicant was authorized to practice medicine in the other state, territory, or country.

(2) ~~No~~ An applicant who applies for a license on the basis of an examination and fails the examination may not be granted a license based on credentials from another state, territory, or foreign country or on a certificate issued by the national board of medical examiners or successors, by the federation licensing examination committee or successors, or by the medical council of Canada or successors.

(3) The board may adopt reciprocity or endorsement requirements current with changes in standards in the practice of medicine.

(4) The board may, in the case of an applicant for admission by reciprocity or endorsement, require a written or oral examination of the applicant.

(5) The board may require that graduates of foreign medical schools pass an examination given by the education council for foreign medical graduates or successors.

(6) Holders of the degree of doctor of osteopathy granted in 1955 or before ~~will~~ may be certified only on the basis of taking and passing the examination given by the department, subject to 37-1-101. Holders of the degree of doctor of osteopathy granted after 1955 ~~will~~ must be certified in the same manner as provided ~~above~~ in this section for physicians."

Section 23. Section 37-3-307, MCA, is amended to read:

"37-3-307. Qualifications for licensure -- temporary certificate. (1) The board may authorize the department to issue to an applicant a temporary certificate to practice medicine on the basis of:

(a) passing an examination ~~given and graded by the department, subject to 37-1-101~~ prescribed by the board;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of osteopathic medical examiners or successors, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by the board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were essentially equivalent, in the judgment of the board, to those of this state at the time for granting a license to practice medicine; and

(d) being a graduate of an approved medical school who has completed 1 year of internship or ~~its~~ the equivalent and being of good moral character and good conduct.

(2) The board may require that graduates of foreign medical schools pass the examination given by the education council for foreign medical graduates or successors.

(3) A temporary certificate may be issued to a physician employed by a public institution who is practicing under the direction of a licensed physician. The board may authorize the department to issue a temporary certificate subject to terms of probation or other conditions or limitations set by the board or may refuse a temporary certificate to a person who has committed unprofessional conduct. The issuance of a temporary certificate does not impose any future obligation or duty on the part of the board to grant full licensure or to renew or extend the temporary certificate. The board may, in the case of an applicant for a temporary certificate, require a written, oral, or practical examination of the applicant."

Section 24. Section 37-3-309, MCA, is amended to read:

"37-3-309. Application for license. ~~(1)~~ A person desiring a license to practice medicine shall ~~make application~~ apply to the department~~, verified by oath and in a form prescribed by the board~~ on an approved form.

The application must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by this chapter apart from an examination required by the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the qualifications and whether the applicant has committed unprofessional conduct. The applicant shall provide necessary authorizations for the release of records and information pertinent to the department's inquiry.

~~(2) An applicant for a license on the basis of an examination shall file the application at least 60 days prior to the announced date of the examination. If the applicant is not at the time of filing the application a graduate of but is then in attendance at an approved medical school, the applicant shall submit to the department, instead of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of the approved medical school that the applicant will receive a diploma at the end of the then-current school term. The applicant may not be granted a certificate until the applicant has filed with the department a diploma or other acceptable evidence of graduation from the approved medical school and has complied with the requirements of subsection (1). A license may not be issued until the applicant has satisfied the board that the applicant has completed at least 1 year of an approved internship or its equivalent and has otherwise met the requirements for the issuance of a license under this chapter.~~"

Section 25. Section 37-3-311, MCA, is amended to read:

"37-3-311. Examination. ~~(1) Examinations for a license to practice medicine shall be held not less than twice each year, at a time and place specified by the board. The examination shall be conducted in the English language and shall be sufficiently comprehensive in medicine to adequately test the applicant's professional competence and ability. The examination shall be fair and impartial. Examination papers shall be identified by both the name of the applicant and a number assigned by the department. The board may require the department to use the examination prepared by the national board of medical examiners or the examination prepared by the federation licensing examination committee or successors.~~

~~(2) An applicant must meet the requirements of 37-3-305 prior to taking a scheduled examination.~~

~~(3)~~(1) An applicant who is a graduate of a foreign medical school ~~shall~~ is required to have passed an examination given by the education council for foreign medical graduates or its successor.

~~(4)~~(2) The board may in its discretion require the department to give, subject to 37-1-101, an oral or practical examination to test the applicant's qualifications for licensure and grant appropriate credit for ~~this~~ the

examination.

~~(5)~~(3) The board may use other Montana physicians to assist in preparing the examination.

~~(6)~~(4) A person may not be granted a license to practice medicine if ~~he~~ the person fails to attain a passing grade as set by the board. If an applicant fails to meet the minimum grade requirements ~~in his~~ on the first examination, ~~he~~ the applicant may be reexamined not more than two additional times on each of the component parts of the examination. ~~An examination fee shall be charged for each additional examination.~~ If an applicant is prevented through no fault of ~~his own~~ the applicant's from taking a scheduled examination, ~~he~~ the applicant may, within 2 years, be examined without submitting a new application."

Section 26. Section 37-3-313, MCA, is amended to read:

"37-3-313. ~~Renewal fees -- failure to pay -- limiting~~ Limiting authority to impose renewal fees. ~~(1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine in this state shall pay to the department a renewal fee as prescribed by the board.~~

~~(2) The payments for renewal must be made prior to the expiration date of the license, as set forth in a department rule. The department shall mail renewal notices before the renewal is due.~~

~~(3) Except as provided in 37-1-138, in case of default in the payment of the renewal fee by a person licensed to practice medicine who is actively practicing medicine in this state, the underlying license to practice medicine may be considered lapsed by the board.~~

~~(4)~~ A license or renewal fee may not be imposed on a licensee under this chapter by a municipality or any other subdivision of the state."

Section 27. Section 37-3-341, MCA, is amended to read:

"37-3-341. Legislative findings. The Montana legislature previously found, in 37-3-101, that the practice of medicine in Montana is a privilege, not a natural right, and that the regulation of the practice of medicine is necessary to ensure the health, happiness, safety, and welfare of the people of Montana. The legislature now finds that because of technological advances and changing patterns of medical practice, medicine is increasingly being practiced by electronic means across state lines. Although access to technological advances is in the public interest, the legislature also finds that regulation of the practice of medicine across state lines is necessary to protect the public against the unprofessional, improper, unauthorized, and unqualified practice of medicine. Accordingly, the legislature finds that physicians outside the boundaries of Montana who ~~enter the state~~ by

electronic or other technological means ~~to~~ practice medicine for compensation on patients inside Montana are seeking the benefit and protection of the laws of Montana and are subject to the licensure and regulatory requirements provided in 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349."

Section 28. Section 37-3-342, MCA, is amended to read:

"37-3-342. Definition -- scope of practice allowed by telemedicine certificate. (1) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, "telemedicine" means the practice of medicine, as defined in 37-3-102, by a physician located outside the state who performs an evaluative or therapeutic act relating to the treatment or correction of a patient's physical or mental condition, ailment, disease, injury, or infirmity and who transmits that evaluative or therapeutic act into Montana through any means, method, device, or instrumentality under the following conditions:

(a) The information or opinion is provided for compensation or with the expectation of compensation.

(b) The physician does not limit the physician's services to an occasional case.

(c) The physician has an established or regularly used connection with the state, including but not limited to:

(i) an office or another place for the reception of a transmission from the physician;

(ii) a contractual relationship with a person or entity in Montana related to the physician's practice of medicine; or

(iii) privileges in a Montana hospital or another Montana health care facility, as defined in 50-5-101.

(2) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, telemedicine does not mean:

(a) an act or practice that is exempt from licensure under 37-3-103;

(b) an informal consultation, made without compensation or expectation of compensation, between an out-of-state physician and a physician or other health care provider located in Montana;

(c) the transfer of patient records, independent of any other medical service and without compensation;

(d) communication about a Montana patient with the patient's physician or other health care provider who practices in Montana, in lieu of direct communication with the Montana patient or the patient's legal representative;

(e) diagnosis of a medical condition by a physician located outside the state, based upon an x-ray, cardiogram, pap smear, or other specimen sent for evaluation to the physician outside the state by a health care

provider in Montana; or

(f) a communication from a physician located outside Montana to a patient in Montana in collaboration with a physician or other health care provider licensed to practice medicine in Montana."

Section 29. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without certificate -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine certificate issued pursuant to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine certificate authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine certificate pursuant to 37-3-345(2).

(3) A telemedicine certificate authorizes an out-of-state physician to practice only telemedicine. A telemedicine certificate does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A physician who practices telemedicine in this state without a telemedicine certificate issued pursuant to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that certificate, in violation of the scope of practice allowed by the certificate, or without a physician's certificate of licensure issued pursuant to 37-3-301(2)(a), is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 30. Section 37-3-344, MCA, is amended to read:

"37-3-344. Application for telemedicine certificate. (1) A person desiring a telemedicine certificate shall apply to the department and verify the application by oath, in a form prescribed by the board.

(2) The application must be accompanied by:

(a) a certificate fee prescribed by board rule; and

(b) documents required by the board that establish that the applicant possesses the qualifications prescribed by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the requisite qualifications.

(3) The application must include a clear statement that the applicant consents to the jurisdiction of the state as specified in 37-3-349.

(4) The applicant shall provide to the board authorizations necessary for the release of records and other information required by the board."

Section 31. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of certificate -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine certificate if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a certificate required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) fails to pay a required fee;

(c) does not possess the qualifications or character required by this chapter; or

(d) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine certificate provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 32. Section 37-4-301, MCA, is amended to read:

"37-4-301. ~~Examination -- qualifications~~ Qualifications -- fees ~~-- certification~~. ~~(1) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. It may also include, at the board's discretion, an oral interview with the board, which may include questions pertaining to the practice of dentistry. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence to be administered at times and places approved by the board. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(2) Acceptance by the board of a written and practical examination must be conditioned on evidence that the examination is sufficiently thorough to test the fitness of the applicant to practice dentistry. The examination must include, written in the English language, questions on anatomy, histology, physiology, chemistry, pharmacology and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, orthodontics, periodontics and endodontics, and any additional subjects~~

~~pertaining to dental service.~~

~~(3) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(4)~~ Applicants for licensure shall submit an application~~, which~~ that must include, when required:

~~(a)~~(1) certification of successful completion of the national board ~~written~~ examination;

~~(b)~~(2) certification of successful completion of a regional board ~~practical~~ examination;

~~(c)~~(3) three affidavits of good moral character;

~~(d)~~(4) a certificate of graduation from a board-approved dental school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(5) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(5) Applicants may not take the jurisprudence examination or the oral interview without first having completed and passed all other parts of the examination.~~

~~(6) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination upon payment of a fee commensurate with costs and set by the board.~~

~~(7) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 33. Section 37-4-307, MCA, is amended to read:

"37-4-307. ~~Renewal fee -- default~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dentist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal fees must be given to each dentist registered in this state by the department.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required by the department if the renewal fee is not paid in a timely manner.~~

~~(3) (a) Except as provided in 37-1-138, in case of default in payment of the renewal fee by a licensee, the license must be forfeited by the licensee. The board shall give the licensee 30 days' notice of its proposed~~

~~forfeiture action. The notice must be sent by certified letter addressed to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the time set for forfeiture, the license may not be forfeited.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each renewal period that they were unpaid, plus a late penalty fee for each renewal period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dentist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dentist licensed under this chapter."

Section 34. Section 37-4-402, MCA, is amended to read:

"37-4-402. License -- examination. (1) The department may issue licenses for the practice of dental hygiene to qualified applicants to be known as dental hygienists.

(2) Except as provided by rules adopted under 37-1-319, a person may not engage in the practice of dental hygiene or practice as a dental hygienist in this state until the person has passed an examination approved by the board under rules ~~it considers proper~~ adopted by the board and has been issued a license by the department.

~~(3) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(4) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(5)~~(3) ~~Applicants~~ An applicant for licensure shall submit an application~~, which~~ that must include, when required:

(a) certification of successful completion of the national board ~~written~~ written examination;

(b) certification of successful completion of a regional board ~~practical~~ practical examination;

(c) two affidavits of good moral character;

(d) a certificate of graduation from a board-approved dental hygiene school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(e) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(6) Applicants may not take the jurisprudence examination without first having completed and passed all other parts of the examination.~~

~~(7) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination on payment of a fee commensurate with costs and set by the board.~~

~~(8) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 35. Section 37-4-406, MCA, is amended to read:

"37-4-406. ~~Renewal fee -- default -- forfeiture of license~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dental hygienist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required if the renewal fee is not paid in a timely manner.~~

~~(3) Except as provided in 37-1-138, in case of default in payment of the renewal fee by any licensee, the licensee shall forfeit the license.~~

~~(a) The board shall give the licensee 30 days' notice of its proposed forfeiture action. The notice must~~

~~be sent by certified mail to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) The payment of the renewal fee on or before the time set for forfeiture, with a reasonable late fee set by the board, excuses the default.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each period that they were unpaid, plus a late penalty for each period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dental hygiene since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dental hygienist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5) The board may, after a hearing, revoke or suspend the license of a dental hygienist for violating this chapter.~~

~~(6)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dental hygienist licensed under this chapter."

Section 36. Section 37-6-304, MCA, is amended to read:

"37-6-304. Designations on license -- recording ~~-- renewal -- display~~. (1) A license issued under this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

(2) ~~Licenses must be recorded by the~~ The department shall record licenses the same as other medical licenses.

~~(3) Licenses must be renewed on a date set by department rule.~~

~~(4) A license renewal fee set by the board must be paid on a date set by department rule.~~

~~(5) The department shall mail renewal notices prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~"

Section 37. Section 37-7-104, MCA, is amended to read:

"37-7-104. Qualifications of employee hired to assist board. A person hired by the department to enter and inspect an establishment under this chapter~~; to examine the books of a manufacturer, druggist, storekeeper, wholesaler, pharmacist, or intern; to assist in a prosecution under this chapter; and to assist the board in supervising internships, reciprocity agreements, professional correspondence, and examinations shall~~ must be:

(1) a citizen of the United States and a resident of this state; and

(2) a pharmacist registered under this chapter~~, with at least 5 years of practical experience~~."

Section 38. Section 37-7-302, MCA, is amended to read:

"37-7-302. ~~Examination -- qualifications -- fees -- reciprocity~~ Qualifications -- display of license. ~~(1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.~~

~~(2) The fee for an examination must be set by the board at a figure commensurate with costs. The fee may in the discretion of the board be returned to applicants not taking the examination.~~

~~(3)~~(1) To be entitled to examination as a pharmacist, the applicant must be of good moral character and must have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana-Missoula or ~~from~~ have received an accredited pharmacy degree ~~program~~ that has been approved by the board. However, an applicant may not receive a registered pharmacist's license until the applicant has complied with the internship requirements established by the board.

~~(4)~~(2) Each person licensed and registered under this chapter must receive from the department an appropriate ~~certificate~~ license ~~attesting the fact, which~~. The license must be conspicuously displayed at all times in the place of business."

Section 39. Section 37-7-321, MCA, is amended to read:

"37-7-321. Certified pharmacy license -- display. ~~(1)~~ The board shall provide for the original certification and renewal by the board of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board, ~~and~~ on application on a prescribed form ~~prescribed by the board,~~ and on the payment of an original certification fee prescribed by the board, the board shall issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to pharmacies operated by registered

pharmacists qualified under this chapter. ~~The renewal fee for a pharmacy must be set by the board. Any default in the payment of the renewal fee after the date the fee is due increases the renewal fee as prescribed by the board.~~ The license must be displayed in a conspicuous place in the pharmacy for which it is issued ~~and expires on the date set by board rule~~. ~~It is unlawful for a~~ A person ~~to~~ may not ~~conduct~~ operate a pharmacy, use the word "pharmacy" to identify the business, or use the word "pharmacy" in advertising unless a license has been issued and is in effect.

~~(2) The board may impose discipline or deny or refuse to renew a pharmacy license for reasons specified in and subject to conditions specified in Title 37, chapter 1.~~"

Section 40. Section 37-7-605, MCA, is amended to read:

"37-7-605. Out-of-state wholesale drug distributor licensing requirements. (1) ~~It is unlawful for an~~ An out-of-state wholesale drug distributor ~~to~~ may not conduct business in this state without first obtaining a license from the board and paying the license fee established by the board.

(2) Application for a license under this section must be made on ~~a~~ an approved form ~~furnished by the board~~.

(3) The issuance of a license may not affect tax liability imposed by the department of revenue on any out-of-state wholesale drug distributor.

(4) A person acting as principal or agent for an out-of-state wholesale drug distributor may not sell or distribute drugs in this state unless the distributor has obtained a license."

Section 41. Section 37-7-606, MCA, is amended to read:

"37-7-606. ~~Issuance of licenses~~ Licenses. The license for wholesale drug distributors is effective during the period specified by department rule. ~~An application for renewal of a license must be mailed to each licensee at least 30 days prior to the renewal date, and if the renewal application and the fee are not mailed by the renewal date, the license is void upon its expiration date.~~"

Section 42. Section 37-8-102, MCA, is amended to read:

"37-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advanced practice registered nurse" means a registered professional nurse who has completed

educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202~~(5)(a)~~.

(2) "Board" means the board of nursing provided for in 2-15-1734.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Medication aide" means a person who in an assisted living facility uses standardized procedures in the administration of drugs, as defined in 37-7-101, ~~in an assisted living facility~~ that are prescribed by a physician, an advanced practice registered nurse with prescriptive authority, a dentist, an osteopath, or a podiatrist authorized by state law to prescribe drugs.

(5) "Nursing education program" means any board-approved school that prepares graduates for initial licensure under this chapter. Nursing education programs for:

(a) professional nursing may be a department, school, division, or other administrative unit in a junior college, college, or university;

(b) practical nursing may be a department, school, division, or other administrative unit in a vocational-technical institution or junior college.

(6) "Practice of nursing" embraces the practice of practical nursing and the practice of professional nursing.

(7) (a) "Practice of practical nursing" means the performance of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. ~~Practical~~ The practice of practical nursing ~~practice~~ uses standardized procedures in the observation and care of the ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the administration of medications and treatments prescribed by a physician, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

(b) These services may include a charge-nurse capacity in a long-term care facility that provides skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a registered nurse.

(8) "Practice of professional nursing" means the performance of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis,

planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention, casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (8):

(a) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;

(b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

Section 43. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties. (1) The board shall:

(a) meet annually and ~~shall~~ elect from among the ~~nine~~ members a president and a secretary~~. The board shall~~;

(b) hold other meetings when necessary to transact its business~~. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board.~~

~~(2) The board may make rules necessary to administer this chapter. The board shall~~;

(c) prescribe standards for schools preparing persons for registration and licensure under this chapter~~. It shall~~;

(d) provide for surveys of schools at times ~~it~~ the board considers necessary~~. It shall~~;

(e) approve programs that meet the requirements of this chapter and of the board~~. The department shall, subject to 37-1-101, examine and issue to and renew licenses of qualified applicants. The board shall~~;

(f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list~~. It shall~~;

(g) cause the prosecution of persons violating this chapter ~~and~~. The board may incur necessary expenses for prosecutions.

~~(3) The board may adopt and the department shall publish forms for use by applicants and others, including license, certificate, and identity forms and other appropriate forms and publications convenient for the~~

~~proper administration of this chapter. The board may fix reasonable fees for incidental services, within the subject matter delegated by this chapter.~~

(h) adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.

(i) establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide for assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

~~(4)~~(2) The board may:

(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses~~.~~;

~~(5) (a) The board may~~

(b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or ~~its~~ the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

~~(b) The board shall adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.~~

~~(6) The board may~~

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

~~(7) The board shall establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug~~

~~or substance. The program must provide assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the license fee provided for in 37-8-431 commensurate with the cost of the program.~~

~~(8) The board may~~

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons~~.~~;

(e) adopt rules necessary to administer this chapter; and

~~(9)~~(f) ~~The board may~~ fund additional staff, hired by the department, to administer the provisions of this chapter."

Section 44. Section 37-8-204, MCA, is amended to read:

"37-8-204. Executive director. (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:

~~(1)~~(a) prescribing curricula and standards for nursing schools and making surveys of and approving schools and courses;

~~(2)~~(b) evaluating and approving courses for affiliation of student nurses; and

~~(3)~~(c) reviewing qualifications of applicants for licensure.

(2) The department shall hire as the executive director an individual who:

(a) is a graduate of an approved school of nursing and who has at least a master's degree with postgraduate courses in nursing;

(b) is licensed as a registered professional nurse in Montana; and

(c) has experience in teaching or administration in an approved school of nursing and who has completed at least 3 years in the clinical practice of nursing."

Section 45. Section 37-9-304, MCA, is amended to read:

"37-9-304. Fees. (1) Each person who applies for licensure~~, whether by waiver, examination, or reciprocation,~~ shall pay a fee prescribed by the board at the time of application.

(2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed by the board. ~~A license expires on a date set by department rule and must be renewed upon timely payment of the license fee.~~

~~(3) The fee for issuing a duplicate license must be fixed by the board.~~"

Section 46. Section 37-9-305, MCA, is amended to read:

"37-9-305. ~~Renewal of registration and license~~ License -- grounds for discipline. ~~Each holder of a nursing home administrator's registration and license shall renew it by payment of the required fee for the next subsequent period prior to the expiration date of the currently valid registration and license, except as may be otherwise provided in 37-1-138. Renewals of registrations or licenses~~ A license must be granted as a matter of course. However, if the board finds, after notice and hearing, that the applicant has acted or failed to act in ~~a manner or under circumstances that would constitute grounds for discipline, it may not issue the renewal~~ accordance with this chapter, the board may find grounds for discipline."

Section 47. Section 37-10-302, MCA, is amended to read:

"37-10-302. ~~Examination -- qualifications~~ Qualifications -- application ~~-- issuance of certificate~~. (1) The board shall adopt rules relative to and governing the qualifications of applicants for certificates of registration as optometrists. ~~If the applicant does not meet the requirements of the rules, the applicant is not eligible to take an examination to practice optometry in this state. If the applicant meets the requirements of the rules, the applicant must pass an examination given by the national board of examiners in optometry on behalf of the department, subject to 37-1-101. Examinations must be practical in character and designed to ascertain the applicant's fitness to practice the profession of optometry and must be conducted in the English language. The department shall publish and distribute the examination requirements for a certificate to practice optometry in this state. The board may accept the grades an applicant has received in the written examinations given by the national board of examiners in optometry.~~

(2) A person is not eligible to receive a certificate of registration unless that person is 18 years of age or older and of good moral character.

(3) A person is not eligible to receive a certificate of registration unless that person has certificates of graduation from an accredited high school and from a school of optometry in which the practice and science of optometry is taught in a course of study covering 8 semesters or 4 years of actual attendance and that is accredited by the international association of boards of examiners in optometry.

(4) A person desiring a certificate of registration shall file ~~an~~ a completed application~~, in the manner prescribed by the board,~~ on a form provided by the department and pay a fee prescribed by the board.

~~(5) A person who successfully passes the examination administered by the national board of examiners in optometry and who has met the requirements for qualification as an optometrist must be registered in a register~~

~~kept by the department and, on the payment of a fee prescribed by the board, must receive a certificate of registration signed by the members of the board.~~"

Section 48. Section 37-10-304, MCA, is amended to read:

"37-10-304. Course in use of diagnostic and therapeutic drugs required. (1) (a) In addition to the requirements of 37-10-302, each person desiring to commence the practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners with consultation and approval by the board of optometrists with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions.

(b) A person presently licensed to practice optometry who wishes to employ diagnostic agents ~~must~~ shall satisfactorily complete a course referred to in subsection (1)(a) and ~~must~~ shall pass an examination ~~as provided in subsection (1)(d)~~.

(c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course must also be approved by the board.~~

~~(d) The board shall provide for an examination in competency in the use of diagnostic drugs and shall issue a certificate to those applicants who pass the examination.~~

(2) (a) Each person desiring to ~~commence the~~ practice ~~of~~ optometry shall:

(i) pass an examination, of the ~~international~~ association of regulatory boards ~~of examiners in~~ of optometry, on the diagnosis, treatment, and management of ocular disease; or

(ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular diseases. The course and examination must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course and examination must also be approved by the board.~~

(b) A person presently licensed to practice optometry who wishes to employ therapeutic pharmaceutical agents must meet the requirements of subsection (2)(a).

~~(c) The board shall:~~

~~(i) provide for an examination in competency in the diagnosis, treatment, and management of therapeutic~~

~~pharmaceutical agents; and~~

~~(ii) issue a certificate to an applicant who passes the examination.~~"

Section 49. Section 37-11-201, MCA, is amended to read:

"37-11-201. General powers -- rulemaking ~~power -- records~~. ~~(1)~~ The board may:

~~(a)~~(1) adopt rules to ~~carry~~ implement this chapter ~~into effect~~;

~~(b) grant, suspend, and revoke licenses;~~

~~(c)~~(2) issue subpoenas requiring the attendance of witnesses or the production of books and papers; and

~~(d)~~(3) take any other disciplinary action necessary to protect the public.

~~(2) The board shall:~~

~~(a) examine applicants for licenses at reasonable places and times determined by the board;~~

~~(b) review the qualifications of applicants who are approved for examination for licensure;~~

~~(c) conduct written or computerized examinations that measure the qualifications of individual applicants along with any oral or practical examinations when determined by the board to be appropriate; and~~

~~(d) adopt rules to establish continuing education requirements of at least 20 hours biennially for license renewal for physical therapists and assistants, subject to the provisions of 37-1-138.~~

~~(3) The department shall keep a record of the board's proceedings under this chapter and a register of persons licensed under it. The register must show the name of every licensed physical therapist and licensed assistant, the therapist's or assistant's last-known place of business and last-known place of residence, and the date of issue and the number of every license and certificate issued to a licensed physical therapist or licensed assistant.~~

~~(4) The department shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every person licensed to practice medicine and surgery in the state. An interested person in the state is entitled to obtain a copy of the list on application to the department and payment of an amount not in excess of the cost of the list.~~

~~(5) The department may change addresses and surnames on the licensee's records only on the specific written request by the individual licensee.~~"

Section 50. Section 37-11-304, MCA, is amended to read:

"37-11-304. Application for examination ~~-- fee~~. ~~(1)~~ A person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to the department ~~in writing,~~ on a form furnished by the department. The person shall~~:~~

~~(a)~~ provide evidence ~~under oath~~, satisfactory to the board, of having the qualifications preliminary to the examination required by 37-11-303~~; and~~

~~(b) pay to the department at the time of filing the application a fee established by the board by rule. The fee must be commensurate with the cost of the examination and its administration and must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).~~

~~(2) Anyone failing to pass the required examination on the first attempt is entitled to take a second examination and, if the second examination is failed, to take a third examination. A person who fails the third examination is required to successfully complete additional education as required by the board before retaking the examination~~."

Section 51. Section 37-12-201, MCA, is amended to read:

"37-12-201. Organization of board ~~-- meetings~~ -- powers and duties. ~~(1)~~ The board shall:

(1) elect annually a president, vice president, and secretary-treasurer from its membership~~.~~;

~~(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates.~~

~~(3) The board shall:~~

~~(a)~~(2) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

~~(b) adopt a seal that must be affixed to licenses issued;~~

~~(c)~~(3) make a schedule of minimum educational requirements~~, which~~ that are without prejudice, partiality, or discrimination~~,~~ as to the different schools of chiropractic;

~~(d)~~(4) adopt rules necessary for the implementation, administration, continuation, and enforcement of this chapter. The rules must address but are not limited to license applications, ~~form and~~ the display of ~~license~~ licenses, ~~license examination format, criteria for and grading of examinations, disciplinary standards for licensees,~~ and the registration of interns and preceptors.

~~(e)~~(5) make determinations of the qualifications of applicants under this chapter; and

~~(f) administer the examination for licensure under this chapter;~~

~~(g) establish and collect fees, fines, and charges as provided in this chapter;~~

~~(h) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and~~

~~(i)~~(6) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified evaluator for purposes of 39-71-711.

~~(4) The department shall keep a record of the proceedings of the board, which must at all times be open to public inspection.~~"

Section 52. Section 37-12-302, MCA, is amended to read:

"37-12-302. Applications -- qualifications -- fees. (1) A person wishing to practice chiropractic in this state shall ~~make application~~ apply to the department~~,~~ on ~~the~~ a department form ~~and in the manner prescribed by the board~~. Each applicant must be a graduate of ~~or expect to graduate within 90 days prior to the next licensing examination administered by the board from~~ a college of chiropractic approved by the board~~, in which the applicant has attended a course of study of 4 school years of not less than 9 months each~~. The applicant shall present evidence showing proof of a bachelor's degree from an accredited college or university. ~~Application must be made in writing, must be sworn to by an officer authorized to administer oaths, and must recite the history of applicant's educational qualifications, how long the applicant has studied chiropractic, of what school or college the applicant is a graduate, and the length of time the applicant has been engaged in practice.~~ The application must be accompanied with copies of diplomas and certificates and satisfactory evidence of good character and reputation.

(2) The applicant shall pay to the department a license fee prescribed by the board. ~~A fee must also be paid for a subsequent examination and application.~~

(3) A person who is licensed in another state or who previously graduated from or was enrolled in a chiropractic college accredited by the council on chiropractic education on or before October 1, 1995, is exempt from the bachelor's degree requirement."

Section 53. Section 37-13-302, MCA, is amended to read:

"37-13-302. Application for licensure -- fee -- qualifications. (1) Each person desiring to practice acupuncture in this state shall ~~make application~~ apply to the board for licensure ~~with the secretary of the board, upon the forms and in the manner prescribed by the board~~. A fee prescribed by the board ~~shall~~ must accompany

the application.

(2) ~~A person making application~~ An applicant shall furnish to the board evidence that ~~he~~ the applicant is:

(a) at least 18 years of age;

(b) of good moral character~~,~~ as determined by the board;

(c) a graduate of ~~an approved~~ a school of acupuncture that is approved by the national accreditation commission for schools and colleges of acupuncture and oriental medicine and offers a course of at least 1,000 hours of entry-level training in recognized branches of acupuncture or an equivalent curriculum approved by the board; and

(d) has passed an examination ~~prepared and administered by the board or an examination~~ prepared and administered by the national commission for the certification of acupuncturists or its successor."

Section 54. Section 37-14-306, MCA, is amended to read:

"37-14-306. Permits. (1) The board may issue a permit to an applicant not qualifying for the issuance of a license under the provisions of this chapter but who has demonstrated~~,~~ to the satisfaction of the board~~,~~ the capability of performing high-quality x-ray procedures without endangering public health and safety. An applicant ~~must be required to~~ shall demonstrate this capability by completion of formal classroom training that meets the standards established by rule and by means of examination. Permits issued under provisions of ~~this section and~~ 37-14-305 ~~shall~~ and this section must specify x-ray procedures, defined and established by rule, that may be performed by the holder. Permits ~~shall be~~ are valid for a period not to exceed 12 months but may be renewed under the provisions established by rule.

~~(2) Examinations for the issuance of a permit must include a written portion and may also include practical and oral portions as established by the board. The board shall provide applicants for permits the opportunity for examination at intervals not to exceed 6 months. A nonrefundable examination fee, established by the board, must be submitted prior to examination for a permit. An applicant failing the examination must be charged a nonrefundable examination fee for any subsequent examination. An applicant failing any subsequent examination shall meet any additional eligibility requirements established by rule for reexamination.~~

~~(3)~~(2) ~~Applicants~~ An applicant meeting minimum requirements for licensure ~~shall~~ must be issued a temporary permit to work as a radiologic technologist. This temporary permit ~~shall expire~~ expires 15 days after the date of first opportunity for examination.

~~(4)~~(3) The board shall issue temporary permits to unlicensed persons to perform x-ray procedures when adequate evidence is provided to the board that ~~such~~ a temporary permit is necessary because of a regional hardship or emergency condition and that ~~such person~~ the prospective recipient of a temporary permit is capable of performing x-ray procedures without endangering public health and safety. Temporary permits may not exceed 12 months in duration but may be renewed by reestablishing~~,~~ to the board's satisfaction~~,~~ evidence of continued regional hardship or emergency conditions. The required adequate evidence of regional hardship, emergency conditions, and capability to perform x-ray procedures without endangering public health and safety must be established by rule.

~~(5)~~(4) Each applicant for a permit must:

(a) be of good moral character;

(b) be at least 18 years of age; and

(c) not be addicted to intemperate use of alcohol or narcotic drugs."

Section 55. Section 37-16-202, MCA, is amended to read:

"37-16-202. Powers and duties. The powers and duties of the board are to:

(1) license persons who apply and are qualified to practice the fitting of hearing aids;

(2) establish a procedure to act as a grievance board to initiate or receive, investigate, and mediate complaints from any source concerning the activities of persons licensed under this chapter or their agents, whether licensed or not;

~~(3) suspend or revoke licenses under this chapter;~~

~~(4) designate the time and place for examining applicants for license and supervise and administer the examination;~~

~~(5)~~(3) adopt rules necessary to carry out this chapter;

~~(6)~~(4) require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons who practice or engage in the business of fitting or selling hearing aids;

~~(7) prepare examinations required by the chapter;~~

~~(8)~~(5) initiate legal action to enjoin from operation a person engaged in the sale, dispensing, or fitting of hearing aids in this state that is not licensed under this chapter;

~~(9)~~(6) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411. Rules adopted by the board may include but are

not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411.

~~(10)~~(7) establish and adopt minimum requirements for the form of bills of sale and receipts."

Section 56. Section 37-16-405, MCA, is amended to read:

"37-16-405. Trainee license. (1) An applicant who fulfills the requirements of 37-16-402 and who has not previously applied to take ~~the~~ a practical examination ~~under 37-16-403~~ may apply to the board for a trainee license.

(2) On receiving an application under subsection (1), accompanied by a fee fixed by the board and ~~commensurate with the cost of administering the license and related functions of the board and~~ verification that the applicant has passed the written portion of the examination with a passing score as determined by board rule, the board shall issue a trainee license that entitles the applicant to engage in a 180-day training period during which the applicant:

(a) is required to pass the practical examination administered by the board before being issued a hearing aid dispenser's license; and

(b) shall work under the direct supervision of the sponsoring licensed hearing aid dispenser. During this time the applicant may do the testing necessary for proper selection and fitting of hearing aids and related devices and make necessary impressions. However, the delivery and final fitting of the hearing aid and related devices must be made by the trainee and the supervisor.

(3) The training period must consist of a continuous 180-day term. Any break in training requires application for another trainee license under rules that the board may prescribe.

(4) A trainee license may not be issued unless the board has on file an unrevoked statement from a qualified licensed hearing aid dispenser accepting responsibility for the trainee. Every licensed hearing aid dispenser supervising a trainee license holder shall submit a report every 90 days of the trainee's activities and training assignments, on forms furnished by the board. The supervisor is responsible for all hearing aid fittings of the trainee. A supervisor may terminate any responsibilities to the trainee by mailing by certified mail written notice to the board and the trainee.

(5) ~~(a)~~ If a person who holds a trainee license takes and fails to pass the practical examination during the training period, the board may authorize the department to renew the trainee license for a period of 180 days, during which the provisions of subsection (2)(b) apply. ~~In no event may more~~ More than one renewal ~~be~~ is not

permitted.

~~(b) The fee for renewal must be set by the board commensurate with the cost of administering the license and related functions of the board.~~

(6) A person licensed as an audiologist under the provisions of Title 37, chapter 15, or a person practicing pursuant to 37-1-305 is exempt from the 180-day training period but is required to pass the examinations prescribed in this chapter.

(7) A licensed hearing aid dispenser who sponsors a trainee is directly responsible and accountable under the disciplinary authority of the board for the conduct of the trainee as if the conduct were the licensee's own.

(8) For the purposes of this section, "direct supervision" means the direct and regular observation and instruction of a trainee by a licensed hearing aid dispenser who is available at the same location for prompt consultation and treatment."

Section 57. Section 37-17-302, MCA, is amended to read:

"37-17-302. ~~Application -- qualifications~~ Qualifications. ~~(1) Application for examination for licensure as a psychologist must be made on forms prescribed by the board.~~

~~(2)~~ The board shall license as a psychologist any person who pays the prescribed fee, passes the prescribed examination, and submits evidence ~~by oath~~ that the person:

~~(a)~~(1) is 18 years of age or older;

~~(b)~~(2) is of good moral character;

~~(c) (i)~~(3) (a) has received a doctoral degree in clinical psychology from an accredited college or university having an appropriate graduate program approved by the American psychological association;

~~(ii)~~(b) has received a doctoral degree in psychology from an accredited college or university not approved by the American psychological association and has successfully completed a formal graduate retraining program in clinical psychology approved by the American psychological association; or

~~(iii)~~(c) has received a doctoral degree in psychology from an accredited college or university and has completed a course of studies that meets minimum standards specified in rules by the board; and

~~(d)~~(4) has completed at the time of application a minimum of 2 years of supervised experience in the practice of psychology. One year of this experience must be postdoctoral but may not include more than 6 months of supervised research, teaching, or a combination of both."

Section 58. Section 37-18-202, MCA, is amended to read:

"37-18-202. ~~Powers of board and department -- examinations~~ Rulemaking. ~~(1)~~ The board may adopt rules ~~and orders~~ necessary ~~for the performance of its duties, including but not limited to:~~

~~(a) prescribing of forms for application for examination and license;~~

~~(b) preparation of examinations; and~~

~~(c) clarifying the use of support personnel and the provision of emergency services.~~

~~(2) The department shall, subject to 37-1-101, supervise the examination of applicants for license to practice veterinary medicine, obtain the services of professional examination agencies instead of its own preparation of examinations, and grant and revoke licenses~~ to carry out the purposes of this chapter."

Section 59. Section 37-19-401, MCA, is amended to read:

"37-19-401. License required -- display of license ~~-- renewal -- penalty for late renewal~~. ~~(1)~~ An operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

~~(2) A mortuary license expires on the date set by department rule and may be renewed upon payment of a fee set by the board.~~

~~(3) The board may set a penalty for late renewal of a mortuary license.~~"

Section 60. Section 37-19-702, MCA, is amended to read:

"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal. (1) A person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the cremation of human remains and that conducts cremations must be licensed by the board~~, beginning July 1, 1993~~. The license must be displayed in a conspicuous place in the crematory facility.

(2) A crematory license expires on the date set by department rule and may be renewed upon payment of a fee set by the board~~, which includes~~. The fee must include the cost of annual inspection. If a crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection of both a mortuary facility under 37-19-403 and a crematory facility.

~~(3) The board may set a penalty fee for late renewal of a license.~~

~~(4)~~(3) A person in charge of a licensed crematory facility must be licensed as a crematory operator by the board. A person employed by a licensed crematory facility must be licensed as a crematory technician by the

board. The license must be displayed in a conspicuous place in the crematory facility.

~~(5)~~(4) Crematory operator and crematory technician licenses expire on the date set by department rule and may be renewed upon payment of a fee set by the board. On-the-job training must be provided to a crematory technician at the time of employment."

Section 61. Section 37-19-807, MCA, is amended to read:

"37-19-807. Powers and duties of board. The board is charged with administering this part. The board may:

(1) conduct reasonable periodic, special, or other examinations of a cemetery or cemetery company, including but not limited to an examination of the physical condition or appearance of the cemetery, an audit of the financial condition of the cemetery company and any trust funds maintained by the cemetery company, and any other examinations the board considers necessary or appropriate in the public interest. The board may also order examinations in response to public complaints. The examinations must be made by members or representatives of the board that may include a certified or registered public accountant or any other person designated by the board.

(2) issue or amend permits to operate a cemetery in accordance with the provisions of this part;

(3) adopt rules ~~and forms~~ to enforce the provisions of this part;

(4) require a cemetery company to observe minimum accounting principles and practices and to keep books and records in accordance with the principles and practices for ~~the~~ a period ~~of time~~ that the board may by rule prescribe; and

(5) require a cemetery company to provide additional contributions to the perpetual care and maintenance fund of the cemetery as provided for in this part, including but not limited to contributions not to exceed $1,000 whenever a cemetery company fails to properly care for, maintain, or preserve a cemetery."

Section 62. Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a physician assistant-certified in the practice of medicine, as defined in 37-3-102, and a physician assistant-certified may not be employed or practice as a physician assistant-certified unless the physician assistant-certified:

(a) is supervised by a licensed physician;

(b) is licensed by the Montana state board of medical examiners; and

(c) has received board approval of a physician assistant-certified utilization plan.

(2) A physician assistant-certified utilization plan must set forth in detail the following information:

(a) the name and qualifications of the supervising physician, as provided in 37-20-101, and the name and license number of the physician assistant-certified;

(b) the nature and location of the physician's medical practice;

(c) the scope of practice of the physician assistant-certified and the locations where the physician assistant-certified will practice;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to act as an alternate supervising physician in the absence of the primary supervising physician;

(e) necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified; and

(f) other information the board may consider necessary.

(3) The board shall approve the utilization plan if ~~it~~ the board finds that the practice of the physician assistant-certified is:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the physician assistant-certified.

(4) A supervising physician and a physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the criteria set out in 37-20-402, so long as the information requirements of subsection (2) have been met and the appropriate fee provided for in 37-20-302~~(1)~~ has been paid.

(5) A utilization plan may provide that a physician assistant-certified be allowed to furnish services on a locum tenens basis at a location other than the physician assistant-certified's primary place of practice. A locum tenens utilization plan may be approved by a single board member."

Section 63. Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval and fee ~~-- renewal of license -- renewal fee~~. ~~(1)~~ A utilization

plan must be submitted for approval, and a fee must be paid in an amount set by the board. Payment must be made when the utilization plan is submitted to the board and is not refundable.

~~(2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.~~

~~(3) A license issued under this part must be renewed for a period and on a date set by the department of labor and industry.~~

~~(4) A license renewal fee set by the board must be paid at the time the license is renewed.~~

~~(5) The department of labor and industry shall mail a renewal notice prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the license renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~

~~(7) Fees received by the department of labor and industry must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6).~~"

Section 64. Section 37-22-201, MCA, is amended to read:

"37-22-201. Duties of board. The board ~~shall~~:

~~(1) subject to 37-1-101, examine qualified applicants, issue licenses to qualified applicants that meet the requirements of this chapter, and renew licenses under the provisions of this chapter;~~

~~(2)~~(1) shall recommend prosecutions for violations of 37-22-411 and 37-23-311 to the attorney general or the appropriate county attorney, or both;

~~(3) annually publish a list of the names and addresses of all persons who are licensed social workers;~~

~~(4) establish requirements for continuing education that are a condition of license renewal;~~

~~(5)~~(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 22, and 23 ~~this section~~. The board may, once a year by a consensus of ~~its~~ board members, determine that there is no necessity for a board meeting.

~~(6) distribute a copy of the ethical standards to the certified masters of social work; and~~

~~(7)~~(3) shall adopt rules that set professional, practice, and ethical standards for ~~licensed masters of~~ social ~~work~~ workers and professional counselors and ~~such~~ other rules as may be reasonably necessary for the administration of chapter 23 and this chapter~~.~~; and

(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued."

Section 65. Section 37-22-301, MCA, is amended to read:

"37-22-301. License requirements -- exemptions. (1) A license applicant shall satisfactorily complete an examination ~~prepared and administered~~ prescribed by the board.

(2) Before an applicant may take the examination, the applicant shall present three letters of reference from licensed social workers, licensed clinical social workers, psychiatrists, or psychologists who have knowledge of the applicant's professional performance and shall demonstrate to the board that the applicant:

(a) has a doctorate or master's degree in social work from a program accredited by the council on social work education or approved by the board;

(b) has completed at least 24 months of supervised post master's degree work experience in psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years; and

(c) abides by the social work ethical standards adopted under 37-22-201.

~~(3) An applicant who submits an application for licensure before October 1, 1994, may acquire the supervised experience required by subsection (2)(b) in less than 24 months.~~

~~(4)~~(3) An applicant who ~~has failed~~ fails the examination may reapply to take the examination.

~~(5)~~(4) An applicant is exempt from the examination requirement if the applicant satisfies the board that the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and that the applicant has passed an examination similar to that required by the board."

Section 66. Section 37-22-302, MCA, is amended to read:

"37-22-302. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~equal to the cost of processing the application.~~

~~(2) Each applicant for a license required to take an examination shall, prior to commencement of the examination, pay an examination fee set by the board equal to the cost of administering the examination.~~

~~(3) Each applicant shall, prior to receipt of a license or license renewal, pay a fee set by the board equal to the cost of issuing a license.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 67. Section 37-23-101, MCA, is amended to read:

"37-23-101. Purpose. The legislature finds and declares that because the profession of professional counseling profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by ensuring ethical, qualified, and professional practice of professional counseling. This chapter and the rules promulgated by the board under ~~37-23-103~~ 37-22-201 set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of professional counseling as licensed professional counselors."

Section 68. Section 37-23-202, MCA, is amended to read:

"37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily ~~completed~~:

(a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum~~, which~~ that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) ~~and~~ passed an examination prepared and administered by:

~~(i) the board, based on a national examination approved by the board;~~

~~(ii)~~(i) the national board of certified counselors; or

~~(iii)~~(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application ~~form and process prescribed by the board~~.

(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester ~~hour graduate degree that is~~ hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years."

Section 69. Section 37-23-203, MCA, is amended to read:

"37-23-203. ~~Issuance, effective date, and display~~ Display of license. ~~(1) If an applicant meets the requirements contained in 37-23-202 and has paid the appropriate fees, the board shall issue a license to the~~

~~applicant attesting to the date and fact of licensure. The license is effective on the date of issuance and must be renewed as provided in 37-23-205.~~

~~(2)~~ The license received pursuant to 37-23-202 must be displayed in the registrant's place of business or employment."

Section 70. Section 37-23-206, MCA, is amended to read:

"37-23-206. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~commensurate with costs.~~

~~(2) Each applicant for a license required to take an examination shall, before commencement of the examination, pay an examination fee set by the board commensurate with costs.~~

~~(3) Each applicant shall, before receipt of a license or license renewal, pay a fee set by the board commensurate with costs.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 71. Section 37-24-202, MCA, is amended to read:

"37-24-202. Powers and duties of board. (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

~~(b) evaluate the qualifications of applicants for licensure under this chapter and approve and supervise the examination of applicants;~~

~~(c)~~(b) adopt rules relating to professional licensure and the establishment of ethical standards of practice under this chapter; and

~~(d) conduct hearings and keep records and minutes as the board considers necessary to carry out its functions; and~~

~~(e)~~(c) adopt a seal by which the board shall authenticate ~~its~~ board proceedings.

(2) A copy of the proceedings, records, or acts of the board, signed by the presiding officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of the document.

~~(3) The department may employ persons it considers necessary to carry out the provisions of this chapter.~~"

Section 72. Section 37-24-303, MCA, is amended to read:

"37-24-303. Requirements for licensure. (1) To be eligible for licensure by the board as an occupational therapist or an occupational therapy assistant, the applicant shall:

(a) present evidence of having successfully completed the academic requirements of an educational program recognized by the board for the license sought;

(b) submit evidence of having successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution where the person completed the academic requirements or by a nationally recognized professional association;

(c) submit evidence of having been certified by the national board for certification in occupational therapy, inc. (NBCOT); and

(d) pass an examination ~~as provided for in 37-24-304~~ prescribed by the board.

(2) The supervised fieldwork experience requirement for an occupational therapist is a minimum of 6 months. The supervised fieldwork experience requirement for an occupational therapy assistant is a minimum of 2 months."

Section 73. Section 37-24-310, MCA, is amended to read:

"37-24-310. Fees. ~~(1)~~ The board may adopt fees in accordance with 37-1-134 for:

~~(a)~~(1) applications for licensure;

~~(b) examination;~~

~~(c)~~(2) initial license issuance; and

~~(d) license renewal;~~

~~(e) late license renewal; and~~

~~(f)~~(3) limited permit issuance.

~~(2) All fees collected by the board under this section must be deposited in the state special revenue fund for the use of the board in administering this act, subject to 37-1-101(6).~~"

Section 74. Section 37-25-201, MCA, is amended to read:

"37-25-201. Powers and duties of the board. In addition to all other powers and duties conferred and imposed on the board by Title 37, chapter 1, and this chapter, the board shall~~:~~

~~(1) examine qualified applicants for a license to practice dietetics-nutrition, issue licenses to applicants~~

~~who meet the requirements established by this chapter, and renew licenses as provided in 37-25-307; and~~

~~(2)~~ adopt rules that set professional, practice, and ethical standards for licensed nutritionists and ~~such~~ other rules as may be necessary for the administration of this chapter."

Section 75. Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

~~(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;~~

~~(4)~~(3) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

~~(5)~~(4) adopt rules that set nonrefundable fees~~, commensurate with costs~~, for application, ~~examination,~~ and licensure~~, and other administrative services~~;

~~(6)~~(5) approve naturopathic medical colleges as defined in 37-26-103;

~~(7)~~(6) issue certificates of specialty practice;

~~(8)~~(7) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301;

~~(9)~~(8) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301; and

~~(10)~~(9) adopt rules to implement the provisions in 37-1-138."

Section 76. Section 37-26-403, MCA, is amended to read:

"37-26-403. Application for licensure -- examination -- temporary license. (1) A person who desires a license to practice naturopathic medicine in Montana shall apply to the department ~~in the manner and form prescribed by the board~~. The application must be accompanied by the license fees, the application fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the department may make an independent

investigation to determine whether the applicant possesses the necessary qualifications and whether the applicant has committed unprofessional conduct that would be a basis for licensure denial. At the board's request, the applicant shall provide necessary authorizations for the release of records and information pertinent to the department's investigation.

(2) A person who applies for licensure but who has not passed a licensure examination prescribed or endorsed by the board shall apply to the board for authorization to take the prescribed licensure examination. ~~The application for examination must be accompanied by the examination fee.~~ If the board finds that all other qualifications for licensure except that of examination have been met, the board shall authorize the applicant to take the licensure examination."

Section 77. Section 37-27-105, MCA, is amended to read:

"37-27-105. General powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules may include but are not limited to:

~~(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;~~

~~(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989;~~

~~(c)~~(a) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

~~(d)~~(b) the development of eligibility criteria for client screening by direct-entry midwives ~~in order~~ to achieve the goal of providing midwifery services to women during low-risk pregnancies;

~~(e) the development of procedures for the issuance, renewal, suspension, and revocation of licenses consistent with the provisions in 37-1-138;~~

~~(f) the adoption of disciplinary standards for licensees;~~

~~(g)~~(c) the development of standardized informed consent and reporting forms;

~~(h)~~(d) the adoption of ethical standards for licensed direct-entry midwives;

~~(i)~~(e) the adoption of supporting documentation requirements for primary birth attendants; and

~~(j)~~(f) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201."

Section 78. Section 37-27-210, MCA, is amended to read:

"37-27-210. Fees. (1) An applicant for a direct-entry midwife license shall, upon submitting an application to the board, pay an application fee set by the board~~, commensurate with costs~~.

~~(2) An applicant required to take an examination shall, before commencement of the examination, pay an examination fee set by the board, commensurate with costs.~~

~~(3)~~(2) Before a license may be issued or renewed, an applicant shall pay a fee set by the board~~, commensurate with costs~~.

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~

~~(5)~~(3) Fees are nonrefundable."

Section 79. Section 37-28-104, MCA, is amended to read:

"37-28-104. Board powers and duties. (1) The board shall~~:~~

~~(a) examine,~~ license, grant temporary permits, and renew the licenses or permits of duly qualified applicants~~;~~

~~(b) establish examinations and passing scores for licensure under 37-28-202;~~

~~(c) adopt and implement rules for continuing education requirements to ensure the quality of respiratory care~~.

(2) The board may~~:~~

~~(a)~~ adopt rules necessary to implement the provisions of this chapter~~; and~~

~~(b) establish relicensing requirements and procedures that the board considers appropriate~~."

Section 80. Section 37-28-202, MCA, is amended to read:

"37-28-202. Licensing requirements -- examination -- fees. (1) To be eligible for licensure by the

board as a respiratory care practitioner, the applicant shall:

(a) submit to the board an application fee in an amount established by the board and ~~a written~~ an application ~~on a form provided by the board~~ demonstrating that the applicant has completed:

(i) high school or the equivalent; and

(ii) a respiratory care educational program accredited or provisionally accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education or their successor organizations; and

(b) pass an examination prescribed by the board. The board may use the entry-level examination written by the national board for respiratory care or another examination that satisfies the standards of the national commission for health certifying agencies or the commission's equivalent.

(2) A person holding a license to practice respiratory care in this state may use the title "respiratory care practitioner" and the abbreviation "RCP"."

Section 81. Section 37-29-306, MCA, is amended to read:

"37-29-306. Licensing. (1) A denturist license is valid for a period established by department rule ~~and expires on the date set by department rule. A renewal license must be issued upon timely payment of the renewal fee and the submission of proof of continued qualification for licensure. In addition, the~~. A denturist shall submit proof that the denturist holds a current cardiopulmonary resuscitation card. ~~The license must bear on its face the address where the licensee's denturist services will be performed.~~

(2) ~~Applications~~ An application must be submitted on ~~forms approved by the board and~~ a form furnished by the department. Each application must include all other documentation necessary to establish that the applicant meets the requirements for licensure and is eligible to take the licensure examination. ~~Applications~~ An application must be accompanied by the appropriate fees.

~~(3) This section may not be interpreted to conflict with 37-1-138.~~"

Section 82. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall prescribe rules for:

(1) the conduct of ~~its~~ board business;

(2) the qualification~~, examination,~~ and ~~registration~~ licensure of applicants to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or

manicuring;

(3) the regulation and instruction of apprentices and students;

(4) the conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring for apprentices and students;

(5) the qualification and ~~registration~~ licensure of applicants for booth rental licenses; and

(6) generally the conduct of the persons, firms, or corporations affected by this chapter."

Section 83. Section 37-31-302, MCA, is amended to read:

"37-31-302. License required to practice, teach, or operate salon or shop, booth, or school. (1) A person may not practice or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license.

(2) A place may not be used or maintained for the teaching of barbering, cosmetology, electrology, esthetics, or manicuring for compensation ~~except under a certificate of registration~~ unless licensed as a school.

(3) A person may not operate or manage a salon or shop without a license.

(4) A person may not operate or conduct a school of barbering, cosmetology, electrology, esthetics, or manicuring or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license to teach barbering, cosmetology, electrology, esthetics, or manicuring.

(5) A person may not manage or operate a booth without a booth rental license.

(6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon or shop shall apply to the department for a ~~certificate of registration and~~ license. The application must be accompanied by the ~~registration~~ license fee.

(7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."

Section 84. Section 37-31-303, MCA, is amended to read:

"37-31-303. Application for license to practice or teach. An applicant for a license to practice or teach barbering, cosmetology, electrology, esthetics, or manicuring shall file an application ~~prescribed by the board~~ provided by the department and pass the examination prescribed by the board ~~in order~~ to qualify for licensure. ~~The license must be renewed in accordance with the provisions of 37-31-322.~~"

Section 85. Section 37-31-304, MCA, is amended to read:

"37-31-304. Qualifications of applicants for license to practice. (1) Before a person may practice:

(a) barbering, the person shall obtain a license to practice barbering from the department~~. Before a person may practice~~;

(b) cosmetology, the person shall obtain a license to practice cosmetology from the department~~. Before a person may practice~~;

(c) electrology, the person shall obtain a license to practice electrology from the department~~. Before a person may practice~~;

(d) manicuring, the person shall obtain a license to practice manicuring from the department unless the person is licensed to practice cosmetology~~. Before a person may practice~~; or

(e) esthetics, the person shall obtain a license to practice esthetics from the department unless the person is already licensed to practice cosmetology.

(2) (a) To be eligible to take the examination to practice barbering, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 1,500 hours in a ~~registered~~ licensed barbering school and must have received a diploma from the barbering school or must have completed the course of study in barbering at a school of cosmetology authorized to offer a course of study in barbering prescribed by the board.

(b) A person qualified under subsection (2)(a) shall file ~~a written~~ an application and deposit the application fee with the department and pass an examination as to fitness to practice barbering.

(c) The board shall issue a license to practice barbering, without examination, to a person licensed in another state if the board determines that:

(i) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and

(ii) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.

(3) (a) To be eligible to take the examination to practice cosmetology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. A person may apply to the board for an exception to the

educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 2,000 hours in a ~~registered~~ licensed cosmetology school and must have received a diploma from the cosmetology school or must have completed the course of study in cosmetology prescribed by the board.

(b) A person qualified under subsection (3)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice cosmetology.

(4) (a) To be eligible to take the examination to practice electrology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of education, training, and experience in the field of electrology as prescribed by the board by rule.

(b) A person qualified under subsection (4)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice electrology.

(5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of manicuring. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or a certificate of completion from a vocational-technical program. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (5)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice manicuring.

(6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board and consisting of not less than 650 hours of training and instruction in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of esthetics. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (6)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice esthetics."

Section 86. Section 37-31-305, MCA, is amended to read:

"37-31-305. Qualifications of applicants for license to teach. (1) Before a person may teach manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics or to teach cosmetology, the person shall obtain from the department a license to teach cosmetology.

(2) To be eligible to take an examination to obtain a license to teach cosmetology, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized by the superintendent of public instruction; and

(b) (i) have a license to practice cosmetology issued by the department and have received a diploma from a ~~registered~~ licensed school of cosmetology approved by the board, certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(3) Before a person may teach manicuring to a person seeking only to be licensed to practice manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach manicuring.

(4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice manicuring or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(5) Before a person may teach esthetics to a person seeking only to be licensed to practice esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach esthetics.

(6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice esthetics or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(7) To be eligible to take an examination to obtain a license to teach barbering, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice barbering issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 500 hours of student teacher training; or

(ii) have been actively engaged as a barber for 3 continuous years immediately before taking the teacher's examination.

(8) To be eligible to take an examination for a license to teach electrology, a person must:

(a) be a high school graduate or possess an equivalent of a high school diploma recognized by the superintendent of public instruction;

(b) have a 100-hour teacher certificate; and

(c) have been actively engaged as an electrologist for 3 continuous years immediately preceding taking the teacher's examination."

Section 87. Section 37-31-308, MCA, is amended to read:

"37-31-308. ~~Examination -- reexamination -- exemption~~ Exemption for persons with disabilities. ~~(1) Examinations for a license to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or manicuring must be held at places and times specified by the board. The examinations may not be confined to a specific method or system. The board may contract with an outside agency for examination and grading services.~~

~~(2)~~ ~~Persons~~ A person with a physical ~~disabilities~~ disability who is trained for barbering, cosmetology, electrology, esthetics, or manicuring by the department of public health and human services ~~are~~ is, for a period

of 1 year immediately following ~~their~~ graduation, exempt from the examination and the fees described in 37-31-323. On certification from the department of public health and human services that a department of public health and human services beneficiary has successfully completed the required training in a school of barbering, cosmetology, electrology, esthetics, or manicuring, the department shall issue the person the necessary ~~certificate or~~ license to practice the profession in this state."

Section 88. Section 37-31-311, MCA, is amended to read:

"37-31-311. Schools -- ~~certificate of registration~~ license -- requirements -- bond -- curriculum. (1) A person, firm, partnership, corporation, or other legal entity may not operate a school for the purpose of teaching barbering, cosmetology, electrology, esthetics, or manicuring for compensation unless ~~a certificate of registration has been first obtained from~~ licensed by the department. Application for the ~~certificate~~ license must be filed with the department on ~~a~~ an approved form ~~prescribed by the board~~.

(2) A school for teaching barbering may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of barbering.

(c) It maintains a school term of not less than 1,500 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of barbering.

(3) A school for teaching cosmetology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the

proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of cosmetology.

(c) It maintains a school term of not less than 2,000 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of cosmetology.

(4) A school for teaching electrology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school maintains a school term~~, prescribes~~ and a course of practical training and technical instruction prescribed by the board, and possesses apparatus and equipment necessary for teaching electrology as prescribed by the board.

(5) A school for teaching manicuring may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of manicuring.

(b) It maintains a school term and ~~prescribes~~ a course of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of manicuring.

(6) A school for teaching esthetics may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the ready and full teaching of all subjects or practices of esthetics.

(b) It maintains a school term and a course consisting of not less than 650 hours of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of esthetics.

(7) Licenses ~~or certificates of registration~~ for schools of barbering, cosmetology, electrology, esthetics, or manicuring may be refused, revoked, or suspended as provided in 37-31-331.

(8) A teacher or student teacher may not be permitted to practice barbering, cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a course of student teacher training may not have, at any one time, more than one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

(9) The board may make further rules necessary for the proper conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring.

(10) The board shall require the person, firm, partnership, corporation, or other legal entity operating a school of barbering, cosmetology, electrology, esthetics, or manicuring to furnish a bond or other security in the amount of $5,000 and in a form and manner prescribed by the board.

(11) A professional salon or shop may not be operated in connection with a school of barbering, cosmetology, electrology, esthetics, or manicuring.

(12) The board may, by rule, establish a suitable curriculum for teachers' training in ~~registered~~ licensed schools of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 89. Section 37-31-312, MCA, is amended to read:

"37-31-312. Inspection. (1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or shops and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, school of barbering, school of cosmetology, school of electrology, school of esthetics, or school of manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit the inspection during business hours is cause for revocation of a licensee's or school's license ~~or a school's certificate of registration~~.

(2) Upon application for a license, a salon or shop shall pay an initial inspection fee prescribed by the board.

(3) The board may authorize the department to grant to a salon or shop, upon payment of the initial inspection fee, a temporary permit authorizing the salon or shop to operate for a period not to exceed 90 days or until the inspector is able to make the inspection, whichever occurs first. A temporary permit is not renewable.

(4) The department shall require the inspector or inspectors, appointed as provided in subsection (1),

to conduct an annual inspection of each salon or shop in the state."

Section 90. Section 37-31-323, MCA, is amended to read:

"37-31-323. Fees. (1) Fees for licenses ~~and certificates of registration~~ must be paid to the department in amounts prescribed by the board.

(2) The license ~~and registration~~ fees must be paid in advance to the department unless otherwise provided by board rule.

(3) Other or additional license ~~or registration~~ fees may not be imposed by a municipal corporation or other political subdivision of this state for the practice or teaching of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 91. Section 37-34-201, MCA, is amended to read:

"37-34-201. Powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of ~~a license application procedure and~~ acceptable certifications for each category of license;

~~(b) the establishment of license fees commensurate with actual costs;~~

~~(c)~~(b) the establishment of criteria for educational requirements that, at a minimum, meet the standards set forth in 37-34-303; and

~~(d) the development of procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses consistent with the provisions in 37-1-138;~~

~~(e) the adoption of disciplinary standards for licensees;~~

~~(f) the establishment of hearing procedures; and~~

~~(g)~~(c) a requirement that the supervisor of a clinical laboratory technician be accessible at all times that

testing is being performed by the technician in order to provide onsite, telephonic, or electronic consultation."

Section 92. Section 37-34-305, MCA, is amended to read:

"37-34-305. Licensure application procedures. (1) An applicant shall submit an application for a license to the board ~~upon the forms prescribed and furnished by the board~~ and shall pay an application fee set by the board.

(2) Upon receipt of the application and fee, the ~~board~~ department shall issue a license for a clinical laboratory scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and 37-34-303.

~~(3) A license issued under this chapter must be renewed on or before the date set by department rule.~~

~~(4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~"

Section 93. Section 37-35-103, MCA, is amended to read:

"37-35-103. Department powers and duties. (1) The department shall:

(a) ~~examine,~~ license~~,~~ and renew the licenses of qualified applicants;

(b) adopt rules:

(i) for eligibility requirements and competency standards;

~~(ii) prescribing the time, place, content, and passing requirements of the licensure and competency examinations and passing scores for licensure under 37-35-202;~~

~~(iii) for application forms and fees for licensure and for renewal and licensure expiration dates; and~~

~~(iv)~~(ii) defining any unprofessional conduct that is not included in ~~37-1-316~~ 37-1-410; and

~~(c)~~(iii) ~~adopt and implement rules~~ setting criteria for training programs, internships, and continuing education requirements to ensure the quality of addiction counseling.

(2) The department may:

(a) adopt rules necessary to implement the provisions of this chapter;

(b) adopt rules specifying the scope of addiction counseling that are consistent with the education required by 37-35-202; and

(c) establish licensure requirements and procedures that the department considers appropriate."

Section 94. Section 37-40-302, MCA, is amended to read:

"37-40-302. Application -- examination -- certificate. (1) A person wishing to practice the profession of sanitarian may apply to the department for registration on a form ~~prescribed~~ furnished by the ~~board~~ department.

(2) An applicant must have a minimum of a bachelor's degree in environmental health or its equivalent from an accredited university or college ~~and shall pass an examination given at a time and place set by the board. The board shall establish procedures for examination and determination of passing scores by rule~~.

(3) If the applicant meets the board's standards and passes the examination prescribed by the board, the department shall issue a certificate of registration.

(4) ~~Holders~~ A holder of a current ~~certificates are~~ certificate is entitled to append to ~~their~~ the holder's name the initials "R.S."."

Section 95. Section 37-42-304, MCA, is amended to read:

"37-42-304. Application for operator's certificate -- fee. A person desiring to engage in the operation of a water treatment plant, water distribution system, or wastewater treatment plant shall first file an application with the department for a proper certificate. The department shall charge a fee of the same amount as the license cost ~~as established pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of processing the application is offset by federal funds received. The department may not act on an application until the fee has been paid."

Section 96. Section 37-42-308, MCA, is amended to read:

"37-42-308. Annual renewal -- fees -- revocation for failure to renew -- reinstatement -- notice of suspension. (1) Certificates issued under this chapter must be renewed annually before July 1. A certificate issued after July 1 expires the following June 30. After the payment of the initial fee under 37-42-304, a certificate holder shall pay before July 1 of each certificate year a renewal fee according to the schedule adopted by the department ~~pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of administering the certificate is offset by federal funds received to fund the administration of the program.

(2) Subject to subsection (6), if a certificate holder does not apply for a renewal of the certificate before July 1 and remit to the department the necessary renewal fee, the department shall suspend the certificate. Subject to subsection (6), the department shall revoke any certificate that remains suspended for a period of more than 30 days. However, the department, before this revocation, shall notify the certificate holder by certified mail

at the address on the issued certificate of ~~its~~ the department's intention to revoke, at least 10 days before the time set for action to be taken by the department on the certificate.

(3) A certificate once revoked may not be reinstated unless it appears that an injustice has occurred through error or omission or other fact or circumstances indicating to the department that the certificate holder was not guilty of negligence or laches.

(4) Notice of suspension must be given to the certificate holder when the suspension occurs and to the proper official or owner of the treatment works or distribution system.

(5) If a person whose certificate has been revoked through the person's own fault desires to continue as a water or wastewater plant operator, the person shall ~~make application~~ apply to the department under 37-42-304. Successful completion of an examination may be required at the discretion of the department.

(6) This section may not be interpreted to conflict with the provisions of 37-1-138."

Section 97. Section 37-47-101, MCA, is amended to read:

"37-47-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accompany" means to go with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in the area where the activity is being conducted and within sight or sound of the participant at some time during the furnishing of service.

(2) "Base of operations" means the primary physical location where an outfitter receives mail and telephone calls, conducts regular daily business, and bases livestock, equipment, and staff during the hunting season.

(3) "Board" means the board of outfitters provided for in 2-15-1773.

(4) "Camp" means each individual facility or group of facilities that an outfitter uses to lodge a client for a client's trip or uses to lodge a client in the operating area designated in the outfitter's operations plan, including a motel, campground, bed and breakfast, lodge, tent camp, cabin, camper, trailer, or house.

(5) "Consideration" means something of value given or done in exchange for something of value given or done by another.

(6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(7) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to

activities for which the outfitter is licensed.

(8) "License year" means ~~that~~ the period ~~beginning January 1 and ending December 31 of the same year~~ indicated on the face of the license for which the license is valid.

(9) "Net client hunter use" or "NCHU" means the most actual clients served by an outfitter in any NCHU license category in any license year, as documented by verifiable client logs or other documents maintained by the board pursuant to 37-47-201~~(7)~~.

(10) "Nonresident" means a person other than a resident.

(11) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal; facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or professional guide in accompanying that person.

(12) "Participant" means a person using the services offered by a licensed outfitter.

(13) "Professional guide" means a guide who ~~has met~~ meets experience, training, and testing qualifications for designation as a professional guide, as set by board rule.

(14) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102."

Section 98. Section 37-47-201, MCA, is amended to read:

"37-47-201. Powers and duties of board relating to outfitters, guides, and professional guides. The board shall:

~~(1) prepare and publish an information pamphlet that contains the names and addresses of all licensed outfitters. This pamphlet must be available for free distribution as early as possible during each calendar year but not later than the second Friday in March. The pamphlet must contain the names and addresses of only those outfitters who have a valid license for the current license year.~~

~~(2)~~(1) cooperate with the federal government in matters of mutual concern regarding the business of outfitting and guiding in Montana;

~~(3)~~(2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;

~~(4)~~(3) establish outfitter standards, guide standards, and professional guide standards;

~~(5)~~(4) adopt:

~~(a) rules of procedure;~~

~~(b)~~(a) rules to administer and enforce this chapter, including rules prescribing all requisite qualifications for licensure as an outfitter, guide, or professional guide. Qualifications for outfitters must include training, testing, experience in activities similar to the service to be provided, knowledge of rules of governmental bodies pertaining to outfitting and condition and type of gear and equipment, and the filing of an operations plan.

~~(c)~~(b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health, safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing or offering to practice as an outfitter, guide, or professional guide;

~~(d)~~(c) rules specifying standards for review and approval of proposed new operations plans involving hunting use or the proposed expansion of net client hunter use, as set forth in 37-47-316 and 37-47-317, under an outfitter's existing operations plan. Approval is not required when part or all of an existing operations plan is transferred from one licensed outfitter to another licensed outfitter. Rules adopted pursuant to this section must provide for solicitation and consideration of comments from hunters and sportspersons in the area to be affected by the proposal who do not make use of outfitter services.

~~(e)~~(d) rules establishing outfitter reporting requirements. The reports must be filed annually and report actual leased acreage actively used by clients during that year and actual leased acres unused by clients during that year, plus any other information designated by the board and developed in collaboration with the department of fish, wildlife, and parks or the review committee established in 87-1-269 that is considered necessary to evaluate the effectiveness of the hunter management and hunting access management programs.

~~(6)~~(5) hold hearings and proceedings to suspend or revoke licenses of outfitters, guides, and professional guides for due cause;

~~(7)~~(6) maintain records of actual clients served by all Montana outfitters that fulfill the requirements of subsection ~~(5)(e)~~ (4)(d)."

Section 99. Section 37-47-304, MCA, is amended to read:

"37-47-304. Application. (1) Each applicant for an outfitter's, guide's, or professional guide's license shall apply for a license on a form ~~prescribed and~~ furnished by the ~~board~~ department.

(2) The application for an outfitter's license forms the basis for the outfitter's operations plan and must include:

(a) the applicant's full name, residence, address, conservation license number, driver's license number, birth date, physical description, and telephone number;

(b) the address of the applicant's principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the applicant;

(d) the experience of the applicant, including:

(i) years of experience as an outfitter, guide, or professional guide;

(ii) the applicant's knowledge of areas in which the applicant has operated and intends to operate; and

(iii) the applicant's ability to cope with weather conditions and terrain;

(e) a signed statement of the licensed outfitter for each guide and professional guide to be employed or retained as an independent contractor, stating that the guide or professional guide is to be employed by the outfitter and stating that the outfitter recommends the guide or professional guide for licensure;

(f) an affidavit by the outfitter to the board that the equipment listed on the application is in fact owned or leased by the applicant, is in good operating condition, and is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant;

(g) a statement of the maximum number of participants to be accompanied at any one time;

(h) the written approval of the appropriate agency or landowner on whose lands the applicant ~~will~~ intends to provide services or establish hunting camps; and

(i) the boundaries of the proposed operation, stating when applicable:

(i) the name and portion of river;

(ii) the county of location;

(iii) the legal owner of the property;

(iv) the name of the ranch;

(v) the proposed service, including the type of game sought;

(vi) the name of the agency granting use authority; and

(vii) other means of identifying boundaries as established by board rule.

(3) ~~Applications~~ An application for an outfitter's license must be in the name of an individual person only. ~~Applications~~ An application involving corporations, proprietorships, or partnerships must be made by one individual person who qualifies under the provisions of this part. A license issued pursuant to this part must be in the name of that person. Any revocation or suspension of a license is binding upon the individual person and

the corporation, proprietorship, or partnership for the use and benefit of which the license was originally issued.

(4) Application must be made to and filed with the board.

(5) Only one application for an outfitter's license may be made in any license year. If an application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 37-47-308."

Section 100. Section 37-50-304, MCA, is amended to read:

"37-50-304. Public accountants -- licensure without examination of former military personnel -- examination otherwise required. (1) ~~Persons~~ A person serving in the armed forces of the United States on July 1, 1969, who immediately prior to entering ~~this service held themselves out~~ the armed forces represented to the public ~~as~~ that the person was a public ~~accountants~~ accountant and who ~~were~~ was engaged as ~~principals~~ a principal in this state in the practice of public accounting as ~~their~~ the person's principal occupation prior to service in the armed forces may register with the department within 6 months after the date of ~~their~~ the person's separation from active service and, on registration and payment of the license fee, be issued a license by the department as a licensed public accountant. A principal is either the owner of or a partner in an existing accounting practice on July 1, 1969.

(2) ~~In order to~~ To be issued a license as a licensed public accountant, a person who does not qualify under subsection (1) shall successfully complete those portions of the examination ~~provided for in 37-50-308~~ prescribed by the board by rule. The board may require successful completion of alternate portions of the examination for applicants holding valid United States treasury cards at the time of taking the examination."

Section 101. Section 37-51-204, MCA, is amended to read:

"37-51-204. Educational programs. (1) The board may, subject to 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in this connection.

(2) Except as provided in 37-51-302 and subsection (3) of this section, the board may not require examinations of licensees.

(3) The board may require specified performance levels of a licensee with respect to the subject matter of a continuing education course required ~~under 37-51-310~~ by the board when the licensee and the instructor of the course are not physically present in the same facility at the time the licensee receives the instruction."

Section 102. Section 37-51-303, MCA, is amended to read:

"37-51-303. Broker or salesperson examination. (1) In addition to proof of honesty, trustworthiness, and good reputation, an applicant whose application is pending shall satisfactorily pass an examination ~~prescribed by or under the supervision of the board. The examination must be given at least once each 6 months and at places within the state that the board prescribes~~.

(2) (a) The examination for a salesperson's license must include subject portions that the board determines by rule to be appropriate.

(b) If the applicant passes one subject portion of the examination, the applicant is not required to repeat that portion of the examination if the applicant passes the remaining portion within 12 months.

(3) The examination for a broker's license must be of a more exacting nature and scope and more stringent than the examination for a salesperson's license."

Section 103. Section 37-51-305, MCA, is amended to read:

"37-51-305. License ~~-- form~~ -- delivery -- display -- pocket card. (1) ~~The board shall prescribe the form of license.~~ A license ~~shall~~ must bear the seal of the board.

(2) The license of a real estate salesperson ~~shall~~ must be delivered or mailed to the real estate broker with whom the real estate salesperson is associated and ~~shall~~ must be kept in the custody and control of the broker.

(3) A broker shall display ~~his~~ the broker's own license conspicuously in ~~his~~ the broker's place of business.

(4) The department shall annually prepare and deliver a pocket card certifying that the person whose name appears is a registered real estate broker or a registered real estate salesperson, stating the period for which fees have been paid and, on real estate salesperson's cards only, the name and address of the broker with whom ~~he~~ the real estate salesperson is associated."

Section 104. Section 37-51-603, MCA, is amended to read:

"37-51-603. Qualification of property manager applicants -- examination -- form of licenses. (1) The board by rule shall require an applicant for licensure to provide information that the board believes is necessary to ensure that a person granted a property manager license is of good repute and competent to transact the business of a property manager in a manner that safeguards the welfare and safety of the public.

(2) (a) The board shall require an applicant for a property manager license to:

(i) apply for licensure to the department;

(ii) furnish written evidence that the applicant has completed the number of classroom hours that the board determines appropriate in a course of study approved by the board and taught by instructors approved by the board; and

(iii) satisfactorily complete an examination dealing with the material taught in the course of study.

(b) The course of study must include the subjects of real estate leasing principles, real estate leasing law, and related topics.

~~(3) Examinations must be given at least once every 4 months at places within the state that the board prescribes. The board shall establish by rule the contents of and requirements to pass the examination.~~

~~(4)~~(3) An applicant for licensure as a property manager must be at least 18 years of age and must have graduated from an accredited high school or completed an equivalent education as determined by the board.

~~(5)~~(4) The ~~board shall prescribe the form of the license, and the~~ license must bear the seal of the board. A property manager shall display the license conspicuously in the property manager's place of business.

~~(6)~~(5) The department shall prepare and deliver to the licensee a pocket card in a form and at times prescribed by the board."

Section 105. Section 37-53-104, MCA, is amended to read:

"37-53-104. Rulemaking authority. The board shall adopt rules to carry out the provisions of this chapter. The rules may include but are not limited to:

(1) ~~format of forms for applications and renewal of registration~~ qualifications for applicants and ~~prescribing~~ any additional applicant information ~~to~~ that must be supplied;

(2) documents acceptable in lieu of registration documents under 37-53-204;

(3) conditions that may be placed upon registration under 37-53-212;

(4) the subject matter of the examination or continuing education requirement for license as a timeshare salesperson or timeshare broker; ~~and~~

(5) additional information included in a disclosure document; and

(6) fees established pursuant to 37-1-134."

Section 106. Section 37-60-304, MCA, is amended to read:

"37-60-304. Licenses -- application form and content. (1) Except as provided in 37-60-303(8), an

application for a license must be made on ~~a~~ an approved form ~~prescribed by the board~~ and accompanied by the application fee set by the board.

(2) An application must be made under oath and must include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, a private investigator, or a private security guard;

(e) one recent photograph of the applicant, of a type prescribed by the board, and two classifiable sets of the applicant's fingerprints;

(f) a statement of the applicant's age and experience qualifications; and

(g) other information, evidence, statements, or documents as may be prescribed by the rules of the board.

(3) The board shall verify the statements in the application and the applicant's moral character.

(4) The submittal of fingerprints ~~must be~~ is a prerequisite to the issuance of a license by means of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

(5) The board shall send written notification to the chief of police, sheriff, and county attorney in whose jurisdiction the principal office of the applicant is to be located that an application has been submitted."

Section 107. Section 37-66-304, MCA, is amended to read:

"37-66-304. (Temporary) Qualifications not required -- application for licensure. (1) A person wishing to practice landscape architecture in this state shall apply to the department for a license and successfully pass ~~a written~~ an examination ~~established~~ prescribed by the board.

(2) Each applicant must be admitted to the examination without prerequisite qualifications. (Terminates September 30, 2005--sec. 78, Ch. 492, L. 2001.)

37-66-304. (Effective October 1, 2005) Qualifications and application for licensure. (1) A person wishing to practice landscape architecture in this state shall apply to the department for a license.

(2) Each applicant for licensure must have successfully completed the educational, practical experience, and ~~written~~ examination requirements ~~established~~ prescribed by the board."

Section 108. Section 37-67-303, MCA, is amended to read:

"37-67-303. Application -- contents -- examination -- fees. (1) ~~Applications~~ An application for licensure must be on ~~forms prescribed by the board and~~ a form furnished by the department~~, must contain statements made under oath showing the applicant's education and~~ that provides for a detailed summary of the applicant's technical work~~,~~ and that must contain the required references.

(2) The application fee for an engineer intern is as prescribed by the board and must accompany the application. An additional fee is not required for the issuance of a certificate.

(3) The application fee for licensure as a professional engineer is as prescribed by the board for those holding ~~an~~ a board-approved engineer intern certificate ~~validated for Montana. For those holding a valid engineer intern certificate from some other state, the application fee is as prescribed by the board, which includes the cost of verification of engineer intern certification or licensure. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.~~

~~(4) The department, subject to approval by the board, may, on approval of the application and payment of an application fee as prescribed by the board, issue a license as a professional engineer to a person who holds a certificate of qualification or licensure issued to the person by the committee on national engineering certification of the national council of examiners for engineering and surveying or by a state, territory, or possession of the United States or by another country if the applicant's qualifications meet the requirements of this chapter and the rules of the board~~.

(4) An applicant for a license as a professional engineer shall file an application and satisfactorily pass an examination prescribed by the board. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.

(5) The application fee for a land surveyor intern is as prescribed by the board and must accompany the application. An additional fee is not required for issuance of a certificate.

(6) The application fee for licensure as a professional land surveyor is as prescribed by the board for those holding a board-approved land surveyor intern certificate ~~validated in Montana. For those holding a valid land surveyor intern certificate from some other state, the application fee is as prescribed by the board, which includes cost of verification of the certification~~. Upon approval of an application for licensure as a professional land surveyor and passage of the required ~~examination~~ examinations, the department shall issue a license as a professional land surveyor.

(7) (a) The application fee for licensure as both a professional engineer and professional land surveyor is as prescribed by the board for those holding board-approved engineer intern and land surveyor intern certificates ~~validated in Montana. For those holding valid engineer intern and land surveyor intern certificates from another jurisdiction, the application fee is as prescribed by the board~~.

(b) The fee must accompany the application. Upon approval of an application for licensure as a professional engineer and professional land surveyor and passage of the required examinations, the department shall issue a license.

(8) If the board denies the issuance of a license to any applicant, the initial fee deposited must be retained as an application fee."

Section 109. Section 37-67-321, MCA, is amended to read:

"37-67-321. Emeritus status. (1) A licensee who no longer practices engineering or land surveying may apply to the ~~board~~ department for emeritus status.

(2) Upon receiving an application for emeritus status accompanied by the fee established by the board, the ~~board~~ department shall issue a license of emeritus status to the applicant and record the applicant's name in the roster as an emeritus licensee, along with the date on which the licensee received emeritus status.

(3) An emeritus licensee may retain but may not use the licensee's seal and may not practice engineering or land surveying.

(4) The ~~board~~ department shall reissue a license to an emeritus licensee who pays all application fees, meets all current requirements for licensure, and demonstrates to the board's satisfaction that for the 2 years preceding the application for licensure, the applicant has met ~~the~~ requirements set by the board for maintaining professional competence ~~established under 37-67-315~~."

Section 110. Section 37-68-201, MCA, is amended to read:

"37-68-201. Organization -- meetings -- rulemaking power -- seal. (1) Each July, the board shall elect from its membership a president, vice president, and secretary-treasurer.

(2) The board shall meet quarterly and at other times ~~it~~ that the board considers necessary.

(3) The board ~~may~~ shall:

(a) adopt rules for the administration of this chapter~~,~~, for the licensing of electrical contractors~~,~~, and ~~for the examination and licensing of~~ for the examination of master and journeyman electricians;

(b) adopt a seal;

(c) cause the prosecution and enjoinder of persons violating this chapter."

Section 111. Section 37-68-304, MCA, is amended to read:

"37-68-304. Master electricians -- application -- qualifications -- ~~contents of~~ contents of examination -- fees. (1) An applicant for a master electrician's license shall furnish written evidence of being a graduate electrical engineer of an accredited college or university and of having 1 year of legally obtained practical electrical experience or that the applicant is a graduate of an electrical trade school and has at least 4 years of legally obtained practical experience in electrical work or has had at least 5 years of legally obtained practical experience in planning, laying out, or supervising the installation and repair of wiring, apparatus, or equipment for electrical light, heat, and power.

(2) ~~Applicants~~ An applicant for a license as a master electrician shall file an application on ~~forms prescribed by the board and~~ a form furnished by the department, submit appropriate fees, and satisfactorily pass an examination prescribed by the board. ~~The board shall, not less than 30 days prior to a scheduled examination, notify each applicant that the evidence submitted with the applicant's application is sufficient to qualify to take the examination or that the evidence is insufficient and is rejected. If the application is rejected, the board shall set forth the reasons in the notice to the applicant. The place of examinations must be designated by the board, and examinations must be held at least once a year and at other times as, in the opinion of the board, the number of applicants warrants.~~

~~(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the national electric code;~~

~~(b) cost estimating for electrical installments;~~

~~(c) procurement and handling of materials needed for electrical installations and repair;~~

~~(d) reading blueprints for electrical work;~~

~~(e) drafting and layout of electrical circuits; and~~

~~(f) knowledge of practical electrical theory.~~

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~ The board shall, not less than 30 days prior to a scheduled examination, notify each applicant that the evidence submitted with the applicant's application is

sufficient to qualify to take the examination or that the evidence is insufficient and is rejected. If the application is rejected, the board shall set forth the reasons in the notice to the applicant. The place of examinations must be designated by the board, and examinations must be held at least once a year and at other times as, in the opinion of the board, the number of applicants warrants.

(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:

(a) the national electric code;

(b) cost estimating for electrical installments;

(c) procurement and handling of materials needed for electrical installations and repair;

(d) reading blueprints for electrical work;

(e) drafting and layout of electrical circuits; and

(f) knowledge of practical electrical theory.

(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs."

Section 112. Section 37-68-305, MCA, is amended to read:

"37-68-305. Journeyman and residential electricians -- application -- qualifications -- contents of examination. (1) An applicant for a journeyman electrician's license shall furnish written evidence of at least 4 ~~years'~~ years of apprenticeship in the electrical trade or 4 ~~years'~~ years of legally obtained practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power. Applications for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~ The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:

(a) the Ohm's law;

(b) the national electric code; and

(c) layout and practical installation of electrical circuits.

(2) An applicant for a residential electrician's license shall furnish written evidence of at least 2 ~~years'~~ years of apprenticeship in the electrical trade or 2 ~~years'~~ years of legally obtained practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power in residential construction consisting of less than five living units in a single structure. Application for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~ The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:

(a) the Ohm's law;

(b) the national electric code; and

(c) layout and practical installation of electrical circuits."

Section 113. Section 37-68-307, MCA, is amended to read:

"37-68-307. Examination procedure -- third-party services ~~-- issuance of master, journeyman, or residential electrician's license -- expiration~~. ~~(1)~~ To ensure impartiality, the examination for either the residential, master's, or journeyman's license must be administered by the department. The department may use a third party to provide examination and grading services. The examination passing grade is 75%.

~~(2) If it is determined that the applicant has passed the examination, the department shall issue to the applicant a license that authorizes the licensee to engage in the business, trade, or calling of a residential electrician, journeyman electrician, or master electrician.~~

~~(3) Each original license expires on the renewal date established by the department by rule if it is not more than 3 years after the date of issuance.~~"

Section 114. Section 37-68-310, MCA, is amended to read:

"37-68-310. ~~License renewal period -- renewal~~ Renewal of lapsed licenses. (1) ~~Licenses of~~

~~residential electricians, journeyman electricians, or master electricians, unless they have been suspended or revoked by the board or unless the department changes the duration of the renewal period, must be renewed for a period of 3 years by the department on application for renewal made to the department on or before the renewal date set by department rule and on the payment of a renewal fee. If application for renewal is not made on or before the renewal date, an additional fee prescribed by board rule must be paid.~~ It is unlawful for a person who refuses or fails to pay the renewal fee to practice electrical work in this state. A person with a lapsed license may be issued a renewal license without examination if the applicant pays the original renewal fee and any delinquency fee within 1 year of the license expiration date. Subject to subsection (2), a lapsed license that is not renewed within 1 year following its expiration date may not be renewed unless the applicant passes the examination and pays the fee required for an original license.

(2) This section may not be interpreted to conflict with 37-1-138."

Section 115. Section 37-68-312, MCA, is amended to read:

"37-68-312. Electrical contractor's license -- application ~~-- issuance~~ -- fees ~~-- renewal~~. Each electrical contractor shall, on or before the date set by department rule, file with the department an application ~~in writing~~ together with the appropriate fees for each firm operated by the electrical contractor in this state ~~for renewal of the license. A license may not be issued or renewed until the applicant meets the licensure requirements and has paid to the department a license fee set by the board for each firm operated by the electrical contractor. Licenses must bear the date of issuance or renewal. A license must be renewed for a 3-year period upon payment to the department of the license fee on or before the renewal date and upon meeting the requirements set by board rule~~."

Section 116. Section 37-69-304, MCA, is amended to read:

"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by applicants for a journeyman plumber's license:

(a) a specific record of 5 ~~years'~~ years of legally obtained experience in the field of plumbing ~~of a character satisfactory to the board~~. This experience requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or pay records, or by completing an apprenticeship program meeting the standards set by the department ~~of labor and industry~~ or the United States department of labor,

bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of an examination ~~conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing~~ prescribed by the board conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board.

~~(3) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~

~~(4) The department may use a third party to provide examination and grading services.~~"

Section 117. Section 37-69-305, MCA, is amended to read:

"37-69-305. Qualifications of applicants for master plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by an applicant for a master plumber's license:

(a) evidence of 4 ~~years'~~ years of experience as a licensed journeyman plumber in the field of plumbing, verified by time or pay records of actual plumbing experience;

(b) evidence of 3 ~~years'~~ years of experience working with a licensed master plumber or in a supervisory capacity in the field of plumbing, which may run concurrently with the requirement in subsection (1)(a); and

(c) satisfactory completion of an examination ~~for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing~~ prescribed by the board for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing.

(2) For purposes of subsection (1), ~~a year's~~ 1 year of experience is 1,500 hours or more of work in a continuous 12-month period.

(3) A master plumber may not allow the master plumber's license to be used by any person or firm,

corporation, or business other than the master plumber's own for the purpose of obtaining permits or for doing plumbing work under the license.

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.~~

~~(5) The department may use a third party to provide examination and grading services.~~"

Section 118. Section 37-69-306, MCA, is amended to read:

"37-69-306. Examination -- issuance of license. (1) An applicant for a license to work in the field of plumbing ~~shall be examined as to his qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine his skill and qualifications as a master plumber or journeyman plumber.~~

~~(2) The applicant~~ must be examined as to the applicant's qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine the applicant's skill and qualifications as a master plumber or journeyman plumber.

(2) The applicant must, upon successfully passing ~~the~~ an examination prescribed by the board, ~~shall~~ be issued a license authorizing ~~him~~ the applicant to engage in the field of plumbing as a master plumber or journeyman plumber in the state of Montana.

~~(3)~~(3) In the case of a firm or corporation, the examination and issuance of a license to an individual of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master plumbers but not as to journeyman plumbers. ~~No~~ An individual, firm, or corporation may not do the work of a master plumber unless licensed under this chapter.

~~(4)~~(4) In addition to the temporary permits authorized in 37-1-305, the ~~board~~ board may, ~~on a case-by-case basis at the board's discretion and~~ on a case-by-case basis at the board's discretion in accordance with criteria determined by ~~the board~~ the board, renew a temporary practice permit for a person who fails the first license examination for which the person is eligible ~~but who submits a temporary practice permit renewal application to the board stating that the person intends to retake the license examination on the next available date~~."

Section 119. Section 37-69-401, MCA, is amended to read:

"37-69-401. Medical gas piping installation endorsement. (1) A medical gas piping installation

endorsement entitles the holder to install pipe used solely for transporting gases used for medical purposes.

(2) To be eligible for endorsement under this section, a person must meet all requirements for endorsements established by the board by rule.

(3) A person with a valid medical gas piping installation endorsement from another state may install medical gas piping in this state.

(4) The board shall by rule establish the requirements for obtaining a medical gas piping installation endorsement. ~~Fees must be established by rule and must be commensurate with the costs of administering the medical gas piping installation endorsement program.~~"

Section 120. Section 37-72-102, MCA, is amended to read:

"37-72-102. Penalty -- injunction. (1) A person convicted of violating any provision of this chapter or the rules of the department is guilty of a misdemeanor and shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed $500, or both.

(2) The district court may enjoin any violation or threatened violation of the requirements of 37-72-101, 37-72-201, 37-72-202, ~~or~~ 37-72-301 ~~through~~, 37-72-302, 37-72-304, 37-72-305, or 37-72-307 or the rules of the department as a nuisance per se; and the department, the attorney general, or any county attorney may institute proceedings for an injunction."

Section 121. Section 37-72-202, MCA, is amended to read:

"37-72-202. General rulemaking power. The department shall adopt rules to:

(1) implement the training and experience requirements of 37-72-302;

(2) prescribe the amount of the fees provided for in 37-72-301 ~~and 37-72-303 through 37-72-306~~, 37-72-304, and 37-72-305, which must be nonrefundable, in an amount commensurate with the cost of administering this chapter, and deposited in the state special revenue fund for the use of the department;

(3) regulate the use of explosives and grant variances under the provisions of 37-72-201, except that, unless the department is making an investigation under 37-72-203(2), the department does not have the power under this chapter to make inspections into construction blasting and may not adopt rules providing for ~~such~~ inspections related to construction blasting or for inspectors to carry out ~~such~~ inspections related to construction blasting;

(4) provide for the form of the license and pocket card provided for in 37-72-307; and

(5) provide for the conduct of the business of the department under this chapter and govern ~~its~~ department proceedings under 37-72-203."

Section 122. Section 37-72-305, MCA, is amended to read:

"37-72-305. Licensure of persons licensed by other jurisdictions. Upon receipt of an application and application fee, the department shall issue a license to any person fulfilling the requirements of 37-72-301(2)(a) through (2)(d) who holds a certificate, license, or permit, issued by another state or any agency of the United States, allowing the person to supervise or engage in the practice of construction blasting if the department finds that the certificate, license, or permit was issued upon the satisfactory completion of requirements substantially equivalent to the requirements of 37-72-301 ~~through 37-72-303~~ and 37-72-302."

Section 123. Section 37-76-109, MCA, is amended to read:

"37-76-109. Registration and renewal fees. (1) An application for registration or renewal of registration must be accompanied by a fee ~~of $200~~.

(2) All fees and money received by the department must be deposited in ~~a~~ the state special revenue fund in an account for use by the department in performing the duties required by this chapter."

Section 124. Section 50-16-201, MCA, is amended to read:

"50-16-201. Definitions. As used in this part, the following definitions apply:

(1) (a) "Data" means written reports, notes, or records or oral reports or proceedings created by or at the request of a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee of a health care facility that are used exclusively in connection with quality assessment or improvement activities, including the professional training, supervision, or discipline of a medical practitioner by a health care facility.

(b) The term does not include:

(i) incident reports or occurrence reports; or

(ii) health care information that is used in whole or in part to make decisions about an individual who is the subject of the health care information.

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) (a) "Incident reports" or "occurrence reports" means a written business record of a health care facility,

created in response to an untoward event, such as a patient injury, adverse outcome, or interventional error, ~~in order to ensure~~ for the purpose of ensuring a prompt evaluation of the event.

(b) The terms do not include any subsequent evaluation of the event in response to an incident report or occurrence report by a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee.

(4) "Medical practitioner" means an individual licensed by the state of Montana to engage in the practice of medicine, osteopathy, podiatry, optometry, or a nursing specialty described in 37-8-202~~(5)~~ or licensed as a physician assistant-certified pursuant to 37-20-203."

Section 125. Section 50-74-312, MCA, is amended to read:

"50-74-312. Review of license rejection -- waiting period. (1) An applicant for a license under the provisions of this chapter whose application has been rejected may, within 45 days after the date of the rejection, set forth in writing any arguments opposing the rejection and request a review by the department. The request must be addressed to the department and must be signed by the applicant.

(2) Within 2 days after receiving the request, the department shall notify the applicant in writing that on a certain day, not less than 5 days or more than 30 days after receipt of the written request, the department shall review and evaluate the application and any arguments opposing the rejection of the license application.

(3) The applicant may appear in person at the review. At least 2 days before the day set for the review, the applicant may designate in writing to the department ~~of labor and industry~~ the name of an engineer holding a valid license of equal or higher grade than the one applied for, and the engineer may testify on behalf of the applicant at the review.

(4) After the review, if the department ~~of labor and industry~~ determines that the applicant is entitled to the license, the department shall issue the license. If the department affirms the decision to not issue the license, the applicant ~~is required to~~ may reapply to take the license examination, as provided in ~~50-74-309 and~~ 50-74-311, and may not take the examination within 45 days of the final decision to not issue the license."

Section 126. Section 80-8-207, MCA, is amended to read:

"80-8-207. Dealers. (1) ~~It is unlawful for a~~ A person ~~to~~ may not sell, offer for sale, deliver, or have delivered within the state a pesticide without first obtaining a license from the department for each calendar year or portion of a year. A separate dealer's license and fee is required for each location or outlet from which

pesticides are distributed, sold, held for sale, or offered for sale. Pesticide field personnel or salespeople employed directly out of the same location or outlet and under a licensed dealer are not required to obtain a license. The dealer shall furnish the department with the names and addresses of ~~its~~ the dealer's field personnel and salespeople selling pesticides within the state.

(2) The application for a license must be accompanied by a fee of $45. ~~Dealers~~ A dealer applying for renewal of a license shall ~~do so~~ apply on or before March 1 of the calendar year. A dealer applying for renewal of a license after March 1 must be assessed a $25 late licensing fee.

(3) The dealer shall require the purchaser of a restricted pesticide to exhibit the purchaser's license or permit issued under authority of this chapter, or the dealer may verify, under procedures authorized by the department, the purchaser's license or permit through a department list or by electronic means before completing a sale. The department may adopt rules concerning dealer verification of licenses and permits.

(4) The department shall assess an additional annual license fee of $10 on dealers to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than $10 a year or more than $15 a year. Fees collected under this subsection must be deposited in an account in the state special revenue ~~account~~ fund pursuant to 80-8-112.

(5) Pharmacists licensed as provided for in 37-7-302 ~~and 37-7-303~~, veterinarians licensed as provided for in 37-18-302 ~~and 37-18-303~~, and certified pharmacies licensed under 37-7-321 are not required to be licensed to sell pesticides~~, provided that~~ if the certified pharmacies and veterinarians register with the department each year. However, the certified pharmacies and veterinarians ~~shall~~ must meet all other requirements concerning the commercial sale of pesticides. The department shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

Section 127. Repealer. Sections 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310,

37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, and 50-76-105, MCA, are repealed.

Section 128. Effective date. [This act] is effective July 1, 2005.

- END -

I hereby certify that the within bill,
HB 0182, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2019.

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 182

INTRODUCED BY ROBERTS

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

AN ACT GENERALLY REVISING AND CONSOLIDATING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; DISTINGUISHING BETWEEN DEPARTMENT AND BOARD OR PROGRAM DUTIES REGARDING LICENSURE, EXAMINATION, AND FEES; CLARIFYING THE DETERMINATION AND DISTRIBUTION OF FEES FOR LICENSURE, EXAMINATION, AND ADMINISTRATIVE COSTS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO HANDLE CERTAIN TASKS RELATED TO BOARDS, INCLUDING MONITORING OF LICENSING BOARDS' CASH BALANCES AND HIRING SERVICES FOR BOARDS; ALLOWING FOR FEE ADJUSTMENTS; REQUIRING STANDARDIZATION OF FORMS; INCLUDING DEPARTMENT PROGRAMS UNDER CERTAIN PROVISIONS APPLICABLE TO BOARDS; SETTING UNIFORM STANDARDS FOR LICENSE RENEWALS, INCLUDING RENEWAL PERIODS; REVISING CERTAIN NOTIFICATION PERIODS; REMOVING SPECIFIC BOARD OR PROGRAM REFERENCES IF DUTIES ARE ASSIGNED TO THE DEPARTMENT OR PROVIDED GENERALLY TO ALL BOARDS; REMOVING THE REQUIREMENT TO PUBLISH AN ANNUAL LIST OF SOCIAL WORKERS AND PROFESSIONAL COUNSELORS; REMOVING CERTAIN SPECIFIED LICENSING PERIODS; REMOVING THE PUBLICATION REQUIREMENT FOR OUTFITTERS' NAMES AND ADDRESSES; REPEALING CERTAIN BOARD-SPECIFIC OR PROGRAM-SPECIFIC REFERENCES TO LICENSURE, EXAMINATIONS, AND FEES; AMENDING SECTIONS 23-3-501, 23-4-105, 23-4-201, 27-12-206, 33-30-1013, 37-1-101, 37-1-104, 37-1-105, 37-1-121, 37-1-130, 37-1-131, 37-1-134, 37-1-141, 37-1-302, 37-1-306, 37-1-307, 37-2-101, 37-3-203, 37-3-211, 37-3-301, 37-3-305, 37-3-306, 37-3-307, 37-3-309, 37-3-311, 37-3-313, 37-3-341, 37-3-342, 37-3-343, 37-3-344, 37-3-347, 37-4-301, 37-4-307, 37-4-402, 37-4-406, 37-6-304, 37-7-104, 37-7-302, 37-7-321, 37-7-605, 37-7-606, 37-8-102, 37-8-202, 37-8-204, 37-9-304, 37-9-305, 37-10-302, 37-10-304, 37-11-201, 37-11-304, 37-12-201, 37-12-302, 37-13-302, 37-14-306, 37-16-202, 37-16-405, 37-17-302, 37-18-202, 37-19-401, 37-19-702, 37-19-807, 37-20-301, 37-20-302, 37-22-201, 37-22-301, 37-22-302, 37-23-101,37-23-202, 37-23-203, 37-23-206, 37-24-202, 37-24-303, 37-24-310, 37-25-201, 37-26-201, 37-26-403, 37-27-105, 37-27-210, 37-28-104, 37-28-202, 37-29-306, 37-31-203, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, 37-34-201, 37-34-305, 37-35-103, 37-40-302, 37-42-304, 37-42-308, 37-47-101, 37-47-201, 37-47-304, 37-50-304, 37-51-204, 37-51-303, 37-51-305, 37-51-603, 37-53-104, 37-60-304, 37-66-304, 37-67-303, 37-67-321, 37-68-201, 37-68-304, 37-68-305, 37-68-307, 37-68-310, 37-68-312, 37-69-304,

37-69-305, 37-69-306, 37-69-401, 37-72-102, 37-72-202, 37-72-305, 37-76-109, 50-16-201, 50-74-312, AND 80-8-207, MCA; REPEALING SECTIONS 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, AND 50-76-105, MCA; AND PROVIDING AN EFFECTIVE DATE.

HOUSE BILL NO. 182

INTRODUCED BY ROBERTS

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CONSOLIDATING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; DISTINGUISHING BETWEEN DEPARTMENT AND BOARD OR PROGRAM DUTIES REGARDING LICENSURE, EXAMINATION, AND FEES; CLARIFYING THE DETERMINATION AND DISTRIBUTION OF FEES FOR LICENSURE, EXAMINATION, AND ADMINISTRATIVE COSTS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO HANDLE CERTAIN TASKS RELATED TO BOARDS, INCLUDING MONITORING OF LICENSING BOARDS' CASH BALANCES AND HIRING SERVICES FOR BOARDS; ALLOWING FOR FEE ADJUSTMENTS; REQUIRING STANDARDIZATION OF FORMS; INCLUDING DEPARTMENT PROGRAMS UNDER CERTAIN PROVISIONS APPLICABLE TO BOARDS; SETTING UNIFORM STANDARDS FOR LICENSE RENEWALS, INCLUDING RENEWAL PERIODS; REVISING CERTAIN NOTIFICATION PERIODS; REMOVING SPECIFIC BOARD OR PROGRAM REFERENCES IF DUTIES ARE ASSIGNED TO THE DEPARTMENT OR PROVIDED GENERALLY TO ALL BOARDS; ~~REQUIRING BOARD OF HORSERACING REVIEW OF IMPACTS;~~ REMOVING THE REQUIREMENT TO PUBLISH AN ANNUAL LIST OF SOCIAL WORKERS AND PROFESSIONAL COUNSELORS; REMOVING CERTAIN SPECIFIED LICENSING PERIODS; REMOVING THE PUBLICATION REQUIREMENT FOR OUTFITTERS' NAMES AND ADDRESSES; REPEALING CERTAIN BOARD-SPECIFIC OR PROGRAM-SPECIFIC REFERENCES TO LICENSURE, EXAMINATIONS, AND FEES; AMENDING SECTIONS 23-3-501, 23-4-105, 23-4-201, 27-12-206, 33-30-1013, 37-1-101, 37-1-104, 37-1-105, 37-1-121, 37-1-130, 37-1-131, 37-1-134, 37-1-141, 37-1-302, 37-1-306, 37-1-307, 37-2-101, 37-3-203, 37-3-211, 37-3-301, 37-3-305, 37-3-306, 37-3-307, 37-3-309, 37-3-311, 37-3-313, 37-3-341, 37-3-342, 37-3-343, 37-3-344, 37-3-347, 37-4-301, 37-4-307, 37-4-402, 37-4-406, 37-6-304, 37-7-104, 37-7-302, 37-7-321, 37-7-605, 37-7-606, 37-8-102, 37-8-202, 37-8-204, 37-9-304, 37-9-305, 37-10-302, 37-10-304, 37-11-201, 37-11-304, 37-12-201, 37-12-302, 37-13-302, 37-14-306, 37-16-202, ~~37-16-404,~~ 37-16-405, 37-17-302, 37-18-202, ~~37-18-303,~~ 37-19-401, 37-19-702, 37-19-807, 37-20-301, 37-20-302, 37-22-201, 37-22-301, 37-22-302, 37-23-101,37-23-202, 37-23-203, 37-23-206, 37-24-202, 37-24-303, 37-24-310, 37-25-201, 37-26-201, 37-26-403, 37-27-105, 37-27-210, 37-28-104, 37-28-202, 37-29-306, 37-31-203, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, 37-34-201, 37-34-305, 37-35-103, 37-40-302, 37-42-304, 37-42-308, 37-47-101, 37-47-201, 37-47-304, 37-50-304, 37-51-204, 37-51-303, 37-51-305, 37-51-603, 37-53-104,

37-60-304, 37-66-304, 37-67-303, 37-67-321, 37-68-201, 37-68-304, 37-68-305, 37-68-307, 37-68-310, 37-68-312, 37-69-304, 37-69-305, 37-69-306, 37-69-401, 37-72-102, 37-72-202, 37-72-305, 37-76-109, 50-16-201, 50-74-312, AND 80-8-207, MCA; REPEALING SECTIONS 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, ~~37-68-307, 37-68-310,~~ 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, AND 50-76-105, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-3-501, MCA, is amended to read:

"23-3-501. Licenses -- fees. (1) The board may issue a license to a professional or semiprofessional boxing or wrestling promoter, whether an individual or organization, for the sole purpose of conducting professional or semiprofessional matches or exhibitions.

(2) The board may issue licenses to qualified referees, managers, boxers, wrestlers, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, ~~commensurate with costs for that license,~~ as provided in 37-1-134, ~~as~~ set by the board."

Section 2. Section 23-4-105, MCA, is amended to read:

"23-4-105. Authority of board. The board shall~~, subject to 37-1-101 and 37-1-121,~~ license and regulate racing and review race meets held in this state under this chapter. All percentages withheld from amounts wagered must be deposited in the board's agency fund account. The board shall then distribute all funds collected under 23-4-202(4)(d), 23-4-204(3), and 23-4-302(3) to live race purses or for other purposes for the good of the existing horseracing industry. If the board decides to authorize new forms of racing, including new forms of

simulcast racing, not currently engaged in Montana, ~~it~~ the board shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board ~~should~~ shall consider both the economic and safety impacts on the existing racing and breeding industry."

Section 3. Section 23-4-201, MCA, is amended to read:

"23-4-201. Licenses. (1) ~~It is unlawful for a~~ A person ~~to~~ may not hold a race meet, including simulcast race meets under the parimutuel system, in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall file with the department an application ~~with the department which shall~~ that must set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet ~~shall~~ must be licensed and charged an annual fee set by the board~~, which shall~~ . The annual fee must be paid to the department and used for expenses of administering this chapter~~, subject to 37-1-101(6)~~. Each person holding a license under this chapter shall comply with this chapter and with the rules adopted and orders issued by the board.

(3) A license may not be issued to a person who has failed to pay the fees, taxes, or money required under this chapter.

(4) ~~Applications~~ An application to hold a race ~~meets shall~~ meet must be submitted to the department, and the board shall act on the ~~applications~~ application within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board and an independent racing association conducting a race ~~meets~~ meet comply with the requirements of the rules adopted by the board before granting a license.

(6) A racing association consisting of a local fair board or an association approved by a local fair board may apply for a license to hold a simulcast race meet in a simulcast facility.

(7) An unexpired license held by a person who violates this chapter or who fails to pay to the department the sums required under this chapter is subject to cancellation and revocation by the board."

Section 4. Section 27-12-206, MCA, is amended to read:

"27-12-206. Funding. (1) There is a pretrial review fund to be administered by the director for the purposes stated in this chapter. The fund and any income from it must be held in trust, deposited in an account, and invested and reinvested by the director. The fund may not become part of or revert to the general fund of this state but is subject to auditing by the legislative auditor. Money from the assessments levied under this section

must be deposited in the fund.

(2) For each fiscal year, beginning July 1, an annual assessment is levied on all chiropractic physicians. The amount of the assessment must be annually set by the director and equally assessed against all chiropractic physicians. A fund surplus at the end of a fiscal year that is not required for the administration of this chapter must be retained by the director and used to finance the administration of this chapter during the next fiscal year, in which event the director shall reduce the next annual assessment to an amount estimated to be necessary for the proper administration of this chapter during that fiscal year.

(3) The annual assessment must be paid on or before the date that the chiropractic physician's annual renewal fee under ~~37-12-307~~ 37-1-134 is due. An unpaid assessment bears a late charge fee of $25. The late charge fee is part of the annual assessment. The director has the same powers and duties in connection with the collection of and failure to pay the annual assessment as the department of labor and industry has under ~~37-12-307~~ 37-1-134 with regard to a chiropractic physician's annual license fee. However, nothing in this section may be interpreted to conflict with 37-1-138."

Section 5. Section 33-30-1013, MCA, is amended to read:

"33-30-1013. Coverage required for services provided by nurse specialists. A health service corporation shall provide, in group and individual insurance contracts, coverage for health services provided by a nurse specialist, as specifically listed in 37-8-202~~(5)~~, if health care services that nurse specialists are licensed to perform are covered by the contract."

Section 6. Section 37-1-101, MCA, is amended to read:

"37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department of labor and industry ~~may~~ shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, ~~taking~~ receiving and processing ROUTINE applications for licenses AS DEFINED BY A BOARD, issuing and ~~denying licenses granted by the boards,~~ renewing routine licenses as defined by a board, disciplining licensees, ~~registering,~~ setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing;

(2) standardize policies and procedures and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for ~~the~~ all meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board ~~or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination~~;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department;

(6) assess the costs of the department to the boards and programs on an equitable basis as determined by the department;

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's ~~licensing~~ board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(e);

(9) provide notice to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner;

(10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary; and

(11) establish policies and procedures to set fees for administrative services, as provided in 37-1-134, commensurate with the cost of the services provided. Late penalty fees may be set without being commensurate with the cost of services provided."

Section 7. Section 37-1-104, MCA, is amended to read:

"37-1-104. Standardized forms. ~~It is the responsibility of the~~ The department ~~whenever possible to~~ shall adopt standardized ~~application, license, and other~~ forms and processes to be used by the boards and department programs ~~within the department~~. The standardization is to streamline processes, expedite services, reduce costs~~,~~ and waste, and ~~the use of out-of-date forms and~~ facilitate ~~automated printing and~~ computerization."

Section 8. Section 37-1-105, MCA, is amended to read:

"37-1-105. Reporting disciplinary actions against licensees. The department has the authority and shall require that all ~~licensing~~ boards and department programs ~~within the department~~ require ~~all applicants~~ each applicant for licensure or renewal to report any legal or disciplinary ~~actions~~ action against ~~them~~ the applicant that ~~relate~~ relates to the propriety of the ~~applicants'~~ applicant's practice of or ~~their~~ fitness to practice the profession or occupation for which ~~they seek~~ the applicant seeks licensure. Failure to furnish the required information, except

pursuant to 37-1-138, or the filing of false information is grounds for denial or revocation of a license."

Section 9. Section 37-1-121, MCA, is amended to read:

"37-1-121. Duties of commissioner. In addition to the powers and duties under 2-15-112 and 2-15-121, the commissioner of labor and industry shall:

(1) at the request of a party, appoint an impartial hearings examiner to conduct hearings ~~before each board within the department~~ whenever any board or department program holds a contested case hearing. The hearings examiner shall conduct hearings in a proper and legal manner.

(2) establish the qualifications of and hire all personnel to perform the administrative, legal, and clerical functions of the department for the boards. Boards within the department do not have authority to establish the qualifications of, hire, or terminate personnel. The department ~~may~~ SHALL consult with the boards regarding recommendations for qualifications for ~~personnel~~ EXECUTIVE OR EXECUTIVE DIRECTOR POSITIONS.

(3) approve all contracts and expenditures by boards within the department. A board within the department may not enter into a contract or expend funds without the approval of the commissioner."

Section 10. Section 37-1-130, MCA, is amended to read:

"37-1-130. Definition. As used in this part, ~~"board" means each board in this title~~ the following definitions apply:

(1) "Administrative fee" means a fee established by the department to cover the cost of administrative services as provided for in 37-1-134.

(2) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is ~~allocated~~ administratively attached to the department ~~of labor and industry~~ as provided in 2-15-121.

(3) "Board fee" means:

(a) a fee established by the board to cover program area costs as provided in 37-1-134; and

(b) any other legislatively prescribed fees specific to boards and department programs.

(4) "Department" means the department of labor and industry established in 2-15-1701.

(5) "Department program" means a program administered by the department pursuant to this title and not affiliated with a board.

(6) "Expired license" means a license that is not reactivated within the period of 45 days to 2 years after the renewal date for the license.

(7) "Lapsed license" means a license that is not renewed by the renewal date and that may be reactivated within the first 45-day period after the renewal date for the license.

(8) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation.

(9) "Terminated license" means a license that is not renewed or reactivated within 2 years of the license lapsing."

Section 11. Section 37-1-131, MCA, is amended to read:

"37-1-131. Duties of boards -- quorum required. ~~Each~~ A quorum of each board within the department shall:

(1) set and enforce standards and rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within ~~its~~ the board's jurisdiction;

(2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within ~~its~~ the board's jurisdiction. The hearings must be conducted by a ~~hearing~~ hearings examiner when required under 37-1-121~~(1)~~.

(3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

(4) pay to the department ~~its~~ the board's pro rata share of the assessed costs of the department under 37-1-101(6);

(5) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available.

(6) A board, board panel, or subcommittee convened to conduct board business must have a majority of its members, which constitutes a quorum, present to conduct business.

(7) The board or the department program may:

(a) establish the qualifications of applicants to take the licensure examination;

(b) determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination;

(c) examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations; and

(d) require continuing education for licensure as provided in 37-1-306. If the board or department requires continuing education for continued licensure, the board or department may not audit or verify continuing education requirements as a precondition for renewing the license, certification, or registration. The board or department may conduct random audits of up to ~~20%~~ 50% of all licensees with renewed licenses for documentary verification of the continuing education requirement after the renewal period closes.

(8) A board may, at the board's discretion, request the applicant to make a personal appearance before the board for nonroutine license applications as defined by the board."

Section 12. Section 37-1-134, MCA, is amended to read:

"37-1-134. ~~Licensing boards to establish fees~~ Fees commensurate with costs. ~~All~~ Each ~~licensing boards~~ board allocated to the department shall set board fees ~~reasonably~~ related to the respective program area that are commensurate with costs for licensing, including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits. A board may set an examination fee that must be commensurate with costs. A board that issues endorsements and licenses specialties shall set respective fees commensurate with costs. Unless otherwise provided by law, ~~each board within~~ the department may establish standardized fees, including but not limited to fees for ~~program areas such as application, examination, renewal, reciprocity, late renewal, and continuing education~~ administrative services such as license verification, duplicate licenses, late penalty renewals, licensee lists, and other administrative service fees determined by the department as applicable to all boards and department programs. The department shall collect administrative fees on behalf of each board or department program and deposit the fees in the state special revenue fund in the appropriate account for each board or department program. ~~Board~~ Administrative service costs not related to a specific board or program area may be equitably distributed to board or program areas as determined by the ~~board~~ department. Each board and department program shall maintain records sufficient to support the fees charged for each program area."

Section 13. Section 37-1-141, MCA, is amended to read:

"37-1-141. ~~Nonrenewal of license for three years~~ License renewal -- lapse -- expiration -- termination. (1) The renewal date for a license must be set by department rule. The department shall provide notice prior to the renewal date.

(2) To renew a license, a licensee shall submit a completed renewal form, comply with all certification

and continuing education requirements, and remit renewal fees before the end of the renewal period.

(3) A licensee may reactivate a lapsed license within 45 days after the renewal date by following the process in subsection (5) and complying with all certification and educational requirements.

(4) A licensee may reactivate an expired license within 2 years after the renewal date by following the process in subsection (5) and complying with all certification and education requirements that have accrued since the license was last granted or renewed as prescribed by board or department rule.

(5) To reactivate a lapsed license or an expired license, in addition to the respective requirements in subsections (3) and (4), a licensee shall:

(a) submit the completed renewal form;

(b) pay the late penalty fee provided for in subsection (7); and

(c) pay the current renewal fee as prescribed by the department or the board.

(6) (a) A licensee who practices with a lapsed license is not considered to be practicing without a license.

(b) A licensee who practices after a license has expired is considered to be practicing without a license.

(7) The department may assess a late penalty fee for each renewal period in which a license is not renewed. The late penalty fee need not be commensurate with the costs of assessing the fee.

(8) Unless otherwise provided by statute or rule, ~~a lapsed~~ an occupational or professional license that is not renewed within ~~3~~ 2 years of the most recent renewal date automatically terminates. The terminated license may not be ~~reinstated~~ reactivated, and a new original license must be obtained ~~by passing a qualifying examination and paying the appropriate fee~~.

(9) The department or board responsible for licensing a licensee retains jurisdiction for disciplinary purposes over the licensee for a period of 2 years after the date on which the license lapsed.

(10) This section may not be interpreted to conflict with 37-1-138."

Section 14. Section 37-1-302, MCA, is amended to read:

"37-1-302. Definitions. As used in this part, the following definitions apply:

(1) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.

(2) "Complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(3) "Department" means the department of labor and industry.

(4) "Inspection" means the periodic examination of premises, equipment, or procedures or of a

practitioner by the department to determine whether the practitioner's profession or occupation is being conducted in a manner consistent with the public health, safety, and welfare.

(5) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a written complaint or other information before a board, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the board;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether a board should seek an injunction.

(6) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation~~, regardless of the specific term, such as permit, certificate, recognition, or registration, used for the permission~~.

(7) "Profession" or "occupation" means a profession or occupation regulated by a board."

Section 15. Section 37-1-306, MCA, is amended to read:

"37-1-306. Continuing education. A board or, for programs without a board, the department may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education."

Section 16. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board authority. (1) A board may:

(a) hold hearings as provided in this part;

(b) issue subpoenas requiring the attendance of witnesses or the production of documents and administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must be relevant to the complaint~~, issued by a majority vote of board members not serving on the screening panel described in subsection (1)(c),~~ and must be signed by ~~the presiding officer~~ a member of the board. Subpoenas may be enforced as provided in 2-4-104.

(c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under this part;

~~(d) compel attendance of witnesses and the production of documents. Subpoenas may be enforced as provided in 2-4-104.~~

~~(e)~~(d) establish a screening panel ~~that determines~~ to determine whether there is reasonable cause to believe that a licensee has violated a particular statute, rule, or standard justifying disciplinary proceedings. A screening panel shall specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.

~~(f)~~(e) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding ~~its~~ the board's licensees and license applicants and regarding possible unlicensed practice.

[(3) Each board shall require a license applicant to provide the applicant's social security number as a part of the application. Each board shall keep the social security number from this source confidential, except that a board may provide the number to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 17. Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which the medical practitioner maintains an office for professional practice.

(2) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans;

(b) to affect the structure or any function of the body of humans.

(3) "Drug" has the same meaning as provided in 37-7-101.

(4) "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs~~, but the~~. The term does not include a pharmacy.

(5) "Medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, podiatry, optometry, or a nursing specialty as described in 37-8-202~~(5)~~ and in the licensed practice to administer or prescribe drugs.

(6) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.

(7) "Pharmacy" has the same meaning as provided in 37-7-101.

(8) "State" means the state of Montana or any political subdivision of the state."

Section 18. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. The board may:

(1) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair, impartial, and nondiscriminatory.

(2) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(3) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter;

(4) establish a program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental or chronic physical illness;

~~(5) select an executive secretary to be hired by the department to:~~

~~(a) provide services to the board in connection with the board's duties under this chapter;~~

~~(b) assist in prosecution and matters of license discipline under this chapter; and~~

~~(c) administer the board's affairs;~~ and

~~(6)~~(5) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary."

Section 19. Section 37-3-211, MCA, is amended to read:

"37-3-211. Executive secretary. To perform ~~the~~ services ~~provided for in 37-3-203(5)~~ to the board in connection with the board's duties under this chapter, assist in prosecution and matters of license discipline, and administer the board's affairs, the department shall hire an executive secretary ~~selected by the board~~."

Section 20. Section 37-3-301, MCA, is amended to read:

"37-3-301. License required -- kinds of certificates. (1) Before being issued a license, an applicant

may not engage in the practice of medicine in this state.

(2) The department may issue four forms of certificates of licensure under the board's seal~~:~~, which include the physician's certificate, the restricted certificate, the temporary certificate, and the telemedicine certificate issued in accordance with 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349. The physician's certificate and the restricted certificate must be signed by the president, but the temporary certificate may be signed by any board member. The board shall decide which certificate to issue. These certificates must be designated as:

(a) a physician's certificate, which is subject to renewable registration in accordance with department rules;

(b) a restricted certificate;

(c) a temporary certificate, which is subject to specifications and limitations imposed by the board; and

(d) a telemedicine certificate."

Section 21. Section 37-3-305, MCA, is amended to read:

"37-3-305. Qualifications for licensure. (1) Except as provided in subsections (4) and (5), a person may not be granted a physician's license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program;

(d) has ~~had~~ submitted a completed application ~~file reviewed by a board member and, at the discretion of the board member, has made a personal appearance before the board~~; and

(e) is able to communicate, in the opinion of the board, in the English language.

(2) The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified.

(3) A person may not be granted a temporary license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program; and

(d) is able, in the opinion of the board, to communicate in the English language.

(4) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or in the opinion of the board has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with the Montana family practice residency program; and

(c) is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state.

(5) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with a program accredited by the accreditation council for graduate medical education or the American osteopathic association;

(c) in the course of an approved rotation of the person's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state;

(d) makes application to the department on ~~a~~ an approved form ~~prescribed by the board~~; and

(e) pays a fee set by the board, as provided in 37-3-308."

Section 22. Section 37-3-306, MCA, is amended to read:

"37-3-306. Physician's certificate -- examination -- reciprocity and endorsement. (1) The board may authorize the department to issue to an applicant a physician's certificate, certificate by reciprocity, or certificate by endorsement only on the basis of:

(a) passing an approved examination ~~given and graded by the department~~, subject to 37-1-101;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of examiners for osteopathic physicians and surgeons, incorporated, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by this board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was

issued were, in the judgment of the board, essentially equivalent to those of this state for granting a license to practice medicine, if under the scope of the license or certificate the applicant was authorized to practice medicine in the other state, territory, or country.

(2) ~~No~~ An applicant who applies for a license on the basis of an examination and fails the examination may not be granted a license based on credentials from another state, territory, or foreign country or on a certificate issued by the national board of medical examiners or successors, by the federation licensing examination committee or successors, or by the medical council of Canada or successors.

(3) The board may adopt reciprocity or endorsement requirements current with changes in standards in the practice of medicine.

(4) The board may, in the case of an applicant for admission by reciprocity or endorsement, require a written or oral examination of the applicant.

(5) The board may require that graduates of foreign medical schools pass an examination given by the education council for foreign medical graduates or successors.

(6) Holders of the degree of doctor of osteopathy granted in 1955 or before ~~will~~ may be certified only on the basis of taking and passing the examination given by the department, subject to 37-1-101. Holders of the degree of doctor of osteopathy granted after 1955 ~~will~~ must be certified in the same manner as provided ~~above~~ in this section for physicians."

Section 23. Section 37-3-307, MCA, is amended to read:

"37-3-307. Qualifications for licensure -- temporary certificate. (1) The board may authorize the department to issue to an applicant a temporary certificate to practice medicine on the basis of:

(a) passing an examination ~~given and graded by the department, subject to 37-1-101~~ prescribed by the board;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of osteopathic medical examiners or successors, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by the board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the

District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were essentially equivalent, in the judgment of the board, to those of this state at the time for granting a license to practice medicine; and

(d) being a graduate of an approved medical school who has completed 1 year of internship or ~~its~~ the equivalent and being of good moral character and good conduct.

(2) The board may require that graduates of foreign medical schools pass the examination given by the education council for foreign medical graduates or successors.

(3) A temporary certificate may be issued to a physician employed by a public institution who is practicing under the direction of a licensed physician. The board may authorize the department to issue a temporary certificate subject to terms of probation or other conditions or limitations set by the board or may refuse a temporary certificate to a person who has committed unprofessional conduct. The issuance of a temporary certificate does not impose any future obligation or duty on the part of the board to grant full licensure or to renew or extend the temporary certificate. The board may, in the case of an applicant for a temporary certificate, require a written, oral, or practical examination of the applicant."

Section 24. Section 37-3-309, MCA, is amended to read:

"37-3-309. Application for license. ~~(1)~~ A person desiring a license to practice medicine shall ~~make application~~ apply to the department~~, verified by oath and in a form prescribed by the board~~ on an approved form. The application must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by this chapter apart from an examination required by the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the qualifications and whether the applicant has committed unprofessional conduct. The applicant shall provide necessary authorizations for the release of records and information pertinent to the department's inquiry.

~~(2) An applicant for a license on the basis of an examination shall file the application at least 60 days prior to the announced date of the examination. If the applicant is not at the time of filing the application a graduate of but is then in attendance at an approved medical school, the applicant shall submit to the department, instead of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of the approved medical school that the applicant will receive a diploma at the end of the then-current school term. The applicant may not be granted a certificate until the applicant has filed with the department a diploma or other acceptable evidence of graduation from the approved medical school and has~~

~~complied with the requirements of subsection (1). A license may not be issued until the applicant has satisfied the board that the applicant has completed at least 1 year of an approved internship or its equivalent and has otherwise met the requirements for the issuance of a license under this chapter.~~"

Section 25. Section 37-3-311, MCA, is amended to read:

"37-3-311. Examination. ~~(1) Examinations for a license to practice medicine shall be held not less than twice each year, at a time and place specified by the board. The examination shall be conducted in the English language and shall be sufficiently comprehensive in medicine to adequately test the applicant's professional competence and ability. The examination shall be fair and impartial. Examination papers shall be identified by both the name of the applicant and a number assigned by the department. The board may require the department to use the examination prepared by the national board of medical examiners or the examination prepared by the federation licensing examination committee or successors.~~

~~(2) An applicant must meet the requirements of 37-3-305 prior to taking a scheduled examination.~~

~~(3)~~(1) An applicant who is a graduate of a foreign medical school ~~shall~~ is required to have passed an examination given by the education council for foreign medical graduates or its successor.

~~(4)~~(2) The board may in its discretion require the department to give, subject to 37-1-101, an oral or practical examination to test the applicant's qualifications for licensure and grant appropriate credit for ~~this~~ the examination.

~~(5)~~(3) The board may use other Montana physicians to assist in preparing the examination.

~~(6)~~(4) A person may not be granted a license to practice medicine if ~~he~~ the person fails to attain a passing grade as set by the board. If an applicant fails to meet the minimum grade requirements ~~in his~~ on the first examination, ~~he~~ the applicant may be reexamined not more than two additional times on each of the component parts of the examination. ~~An examination fee shall be charged for each additional examination.~~ If an applicant is prevented through no fault of ~~his own~~ the applicant's from taking a scheduled examination, ~~he~~ the applicant may, within 2 years, be examined without submitting a new application."

Section 26. Section 37-3-313, MCA, is amended to read:

"37-3-313. ~~Renewal fees -- failure to pay -- limiting~~ Limiting authority to impose renewal fees. ~~(1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine in this state shall pay to the department a renewal fee as prescribed by the board.~~

~~(2) The payments for renewal must be made prior to the expiration date of the license, as set forth in a~~

~~department rule. The department shall mail renewal notices before the renewal is due.~~

~~(3) Except as provided in 37-1-138, in case of default in the payment of the renewal fee by a person licensed to practice medicine who is actively practicing medicine in this state, the underlying license to practice medicine may be considered lapsed by the board.~~

~~(4)~~ A license or renewal fee may not be imposed on a licensee under this chapter by a municipality or any other subdivision of the state."

Section 27. Section 37-3-341, MCA, is amended to read:

"37-3-341. Legislative findings. The Montana legislature previously found, in 37-3-101, that the practice of medicine in Montana is a privilege, not a natural right, and that the regulation of the practice of medicine is necessary to ensure the health, happiness, safety, and welfare of the people of Montana. The legislature now finds that because of technological advances and changing patterns of medical practice, medicine is increasingly being practiced by electronic means across state lines. Although access to technological advances is in the public interest, the legislature also finds that regulation of the practice of medicine across state lines is necessary to protect the public against the unprofessional, improper, unauthorized, and unqualified practice of medicine. Accordingly, the legislature finds that physicians outside the boundaries of Montana who ~~enter the state~~ by electronic or other technological means ~~to~~ practice medicine for compensation on patients inside Montana are seeking the benefit and protection of the laws of Montana and are subject to the licensure and regulatory requirements provided in 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349."

Section 28. Section 37-3-342, MCA, is amended to read:

"37-3-342. Definition -- scope of practice allowed by telemedicine certificate. (1) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, "telemedicine" means the practice of medicine, as defined in 37-3-102, by a physician located outside the state who performs an evaluative or therapeutic act relating to the treatment or correction of a patient's physical or mental condition, ailment, disease, injury, or infirmity and who transmits that evaluative or therapeutic act into Montana through any means, method, device, or instrumentality under the following conditions:

(a) The information or opinion is provided for compensation or with the expectation of compensation.

(b) The physician does not limit the physician's services to an occasional case.

(c) The physician has an established or regularly used connection with the state, including but not limited to:

(i) an office or another place for the reception of a transmission from the physician;

(ii) a contractual relationship with a person or entity in Montana related to the physician's practice of medicine; or

(iii) privileges in a Montana hospital or another Montana health care facility, as defined in 50-5-101.

(2) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, telemedicine does not mean:

(a) an act or practice that is exempt from licensure under 37-3-103;

(b) an informal consultation, made without compensation or expectation of compensation, between an out-of-state physician and a physician or other health care provider located in Montana;

(c) the transfer of patient records, independent of any other medical service and without compensation;

(d) communication about a Montana patient with the patient's physician or other health care provider who practices in Montana, in lieu of direct communication with the Montana patient or the patient's legal representative;

(e) diagnosis of a medical condition by a physician located outside the state, based upon an x-ray, cardiogram, pap smear, or other specimen sent for evaluation to the physician outside the state by a health care provider in Montana; or

(f) a communication from a physician located outside Montana to a patient in Montana in collaboration with a physician or other health care provider licensed to practice medicine in Montana."

Section 29. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without certificate -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine certificate issued pursuant to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine certificate authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine certificate pursuant to 37-3-345(2).

(3) A telemedicine certificate authorizes an out-of-state physician to practice only telemedicine. A telemedicine certificate does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A physician who practices telemedicine in this state without a telemedicine certificate issued pursuant

to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that certificate, in violation of the scope of practice allowed by the certificate, or without a physician's certificate of licensure issued pursuant to 37-3-301(2)(a), is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 30. Section 37-3-344, MCA, is amended to read:

"37-3-344. Application for telemedicine certificate. (1) A person desiring a telemedicine certificate shall apply to the department and verify the application by oath, in a form prescribed by the board.

(2) The application must be accompanied by:

(a) a certificate fee prescribed by board rule; and

(b) documents required by the board that establish that the applicant possesses the qualifications prescribed by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the requisite qualifications.

(3) The application must include a clear statement that the applicant consents to the jurisdiction of the state as specified in 37-3-349.

(4) The applicant shall provide to the board authorizations necessary for the release of records and other information required by the board."

Section 31. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of certificate -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine certificate if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a certificate required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) fails to pay a required fee;

(c) does not possess the qualifications or character required by this chapter; or

(d) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine certificate provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 32. Section 37-4-301, MCA, is amended to read:

"37-4-301. ~~Examination -- qualifications~~ Qualifications -- fees ~~-- certification~~. ~~(1) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. It may also include, at the board's discretion, an oral interview with the board, which may include questions pertaining to the practice of dentistry. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence to be administered at times and places approved by the board. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(2) Acceptance by the board of a written and practical examination must be conditioned on evidence that the examination is sufficiently thorough to test the fitness of the applicant to practice dentistry. The examination must include, written in the English language, questions on anatomy, histology, physiology, chemistry, pharmacology and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, orthodontics, periodontics and endodontics, and any additional subjects pertaining to dental service.~~

~~(3) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(4)~~ Applicants for licensure shall submit an application~~, which~~ that must include, when required:

~~(a)~~(1) certification of successful completion of the national board ~~written~~ examination;

~~(b)~~(2) certification of successful completion of a regional board ~~practical~~ examination;

~~(c)~~(3) three affidavits of good moral character;

~~(d)~~(4) a certificate of graduation from a board-approved dental school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(5) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(5) Applicants may not take the jurisprudence examination or the oral interview without first having completed and passed all other parts of the examination.~~

~~(6) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination upon payment of a fee commensurate with costs and set by the board.~~

~~(7) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 33. Section 37-4-307, MCA, is amended to read:

"37-4-307. ~~Renewal fee -- default~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dentist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal fees must be given to each dentist registered in this state by the department.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required by the department if the renewal fee is not paid in a timely manner.~~

~~(3) (a) Except as provided in 37-1-138, in case of default in payment of the renewal fee by a licensee, the license must be forfeited by the licensee. The board shall give the licensee 30 days' notice of its proposed forfeiture action. The notice must be sent by certified letter addressed to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the time set for forfeiture, the license may not be forfeited.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each renewal period that they were unpaid, plus a late penalty fee for each renewal period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dentist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dentist licensed under this chapter."

Section 34. Section 37-4-402, MCA, is amended to read:

"37-4-402. License -- examination. (1) The department may issue licenses for the practice of dental

hygiene to qualified applicants to be known as dental hygienists.

(2) Except as provided by rules adopted under 37-1-319, a person may not engage in the practice of dental hygiene or practice as a dental hygienist in this state until the person has passed an examination approved by the board under rules ~~it considers proper~~ adopted by the board and has been issued a license by the department.

~~(3) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(4) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(5)~~(3) ~~Applicants~~ An applicant for licensure shall submit an application~~, which~~ that must include, when required:

(a) certification of successful completion of the national board ~~written~~ WRITTEN examination;

(b) certification of successful completion of a regional board ~~practical~~ PRACTICAL examination;

(c) two affidavits of good moral character;

(d) a certificate of graduation from a board-approved dental hygiene school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(e) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(6) Applicants may not take the jurisprudence examination without first having completed and passed all other parts of the examination.~~

~~(7) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination on payment of a fee commensurate with costs and set by the board.~~

~~(8) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 35. Section 37-4-406, MCA, is amended to read:

"37-4-406. ~~Renewal fee -- default -- forfeiture of license~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dental hygienist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required if the renewal fee is not paid in a timely manner.~~

~~(3) Except as provided in 37-1-138, in case of default in payment of the renewal fee by any licensee, the licensee shall forfeit the license.~~

~~(a) The board shall give the licensee 30 days' notice of its proposed forfeiture action. The notice must be sent by certified mail to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) The payment of the renewal fee on or before the time set for forfeiture, with a reasonable late fee set by the board, excuses the default.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each period that they were unpaid, plus a late penalty for each period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dental hygiene since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dental hygienist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5) The board may, after a hearing, revoke or suspend the license of a dental hygienist for violating this chapter.~~

~~(6)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dental hygienist licensed under this chapter."

Section 36. Section 37-6-304, MCA, is amended to read:

"37-6-304. Designations on license -- recording ~~-- renewal -- display~~. (1) A license issued under this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

(2) ~~Licenses must be recorded by the~~ The department shall record licenses the same as other medical licenses.

~~(3) Licenses must be renewed on a date set by department rule.~~

~~(4) A license renewal fee set by the board must be paid on a date set by department rule.~~

~~(5) The department shall mail renewal notices prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~"

SECTION 37. SECTION 37-7-104, MCA, IS AMENDED TO READ:

"37-7-104. Qualifications of employee hired to assist board. A person hired by the department to enter and inspect an establishment under this chapter~~; to examine the books of a manufacturer, druggist, storekeeper, wholesaler, pharmacist, or intern; to assist in a prosecution under this chapter; and to assist the board in supervising internships, reciprocity agreements, professional correspondence, and examinations shall~~ must be:

(1) a citizen of the United States and a resident of this state; and

(2) a pharmacist registered under this chapter~~, with at least 5 years of practical experience~~."

Section 38. Section 37-7-302, MCA, is amended to read:

"37-7-302. ~~Examination -- qualifications -- fees -- reciprocity~~ Qualifications -- display of license. ~~(1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.~~

~~(2) The fee for an examination must be set by the board at a figure commensurate with costs. The fee may in the discretion of the board be returned to applicants not taking the examination.~~

~~(3)~~(1) To be entitled to examination as a pharmacist, the applicant must be of good moral character and must have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana-Missoula or ~~from~~ have received an accredited pharmacy degree ~~program~~ that has been approved by the board. However, an applicant may not receive a registered pharmacist's license until the applicant has complied with the internship requirements established by the board.

~~(4)~~(2) Each person licensed and registered under this chapter must receive from the department an appropriate ~~certificate~~ license ~~attesting the fact, which~~. The license must be conspicuously displayed at all times

in the place of business."

Section 39. Section 37-7-321, MCA, is amended to read:

"37-7-321. Certified pharmacy license -- display. ~~(1)~~ The board shall provide for the original certification and renewal by the board of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board, ~~and~~ on application on a prescribed form ~~prescribed by the board~~, and on the payment of an original certification fee prescribed by the board, the board shall issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to pharmacies operated by registered pharmacists qualified under this chapter. ~~The renewal fee for a pharmacy must be set by the board. Any default in the payment of the renewal fee after the date the fee is due increases the renewal fee as prescribed by the board.~~ The license must be displayed in a conspicuous place in the pharmacy for which it is issued ~~and expires on the date set by board rule~~. ~~It is unlawful for a~~ A person ~~to~~ may not ~~conduct~~ operate a pharmacy, use the word "pharmacy" to identify the business, or use the word "pharmacy" in advertising unless a license has been issued and is in effect.

~~(2) The board may impose discipline or deny or refuse to renew a pharmacy license for reasons specified in and subject to conditions specified in Title 37, chapter 1.~~"

Section 40. Section 37-7-605, MCA, is amended to read:

"37-7-605. Out-of-state wholesale drug distributor licensing requirements. (1) ~~It is unlawful for an~~ An out-of-state wholesale drug distributor ~~to~~ may not conduct business in this state without first obtaining a license from the board and paying the license fee established by the board.

(2) Application for a license under this section must be made on ~~a~~ an approved form ~~furnished by the board~~.

(3) The issuance of a license may not affect tax liability imposed by the department of revenue on any out-of-state wholesale drug distributor.

(4) A person acting as principal or agent for an out-of-state wholesale drug distributor may not sell or distribute drugs in this state unless the distributor has obtained a license."

Section 41. Section 37-7-606, MCA, is amended to read:

"37-7-606. ~~Issuance of licenses~~ Licenses. The license for wholesale drug distributors is effective during the period specified by department rule. ~~An application for renewal of a license must be mailed to each~~

~~licensee at least 30 days prior to the renewal date, and if the renewal application and the fee are not mailed by the renewal date, the license is void upon its expiration date.~~"

Section 42. Section 37-8-102, MCA, is amended to read:

"37-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202~~(5)(a)~~.

(2) "Board" means the board of nursing provided for in 2-15-1734.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Medication aide" means a person who in an assisted living facility uses standardized procedures in the administration of drugs, as defined in 37-7-101, ~~in an assisted living facility~~ that are prescribed by a physician, an advanced practice registered nurse with prescriptive authority, a dentist, an osteopath, or a podiatrist authorized by state law to prescribe drugs.

(5) "Nursing education program" means any board-approved school that prepares graduates for initial licensure under this chapter. Nursing education programs for:

(a) professional nursing may be a department, school, division, or other administrative unit in a junior college, college, or university;

(b) practical nursing may be a department, school, division, or other administrative unit in a vocational-technical institution or junior college.

(6) "Practice of nursing" embraces the practice of practical nursing and the practice of professional nursing.

(7) (a) "Practice of practical nursing" means the performance of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. ~~Practical~~ The practice of practical nursing ~~practice~~ uses standardized procedures in the observation and care of the ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the administration of medications and treatments prescribed by a physician, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

(b) These services may include a charge-nurse capacity in a long-term care facility that provides skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a registered nurse.

(8) "Practice of professional nursing" means the performance of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention, casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (8):

(a) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;

(b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

Section 43. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties. (1) The board shall:

(a) meet annually and ~~shall~~ elect from among the ~~nine~~ members a president and a secretary~~. The board shall~~;

(b) hold other meetings when necessary to transact its business~~. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board.~~

~~(2) The board may make rules necessary to administer this chapter. The board shall~~;

(c) prescribe standards for schools preparing persons for registration and licensure under this chapter~~. It shall~~;

(d) provide for surveys of schools at times ~~it~~ the board considers necessary~~. It shall~~;

(e) approve programs that meet the requirements of this chapter and of the board~~. The department shall, subject to 37-1-101, examine and issue to and renew licenses of qualified applicants. The board shall~~;

(f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or

removal of schools of nursing from the approved list~~. It shall~~;

(g) cause the prosecution of persons violating this chapter ~~and~~. The board may incur necessary expenses for prosecutions.

~~(3) The board may adopt and the department shall publish forms for use by applicants and others, including license, certificate, and identity forms and other appropriate forms and publications convenient for the proper administration of this chapter. The board may fix reasonable fees for incidental services, within the subject matter delegated by this chapter.~~

(h) adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.

(i) establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide for assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

~~(4)~~(2) The board may:

(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses~~.~~;

~~(5) (a) The board may~~

(b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or ~~its~~ the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

~~(b) The board shall adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.~~

~~(6) The board may~~

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational

qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

~~(7) The board shall establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the license fee provided for in 37-8-431 commensurate with the cost of the program.~~

~~(8) The board may~~

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons~~.~~;

(e) adopt rules necessary to administer this chapter; and

~~(9)~~(f) ~~The board may~~ fund additional staff, hired by the department, to administer the provisions of this chapter."

SECTION 44. SECTION 37-8-204, MCA, IS AMENDED TO READ:

"37-8-204. Executive director. (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:

~~(1)~~(a) prescribing curricula and standards for nursing schools and making surveys of and approving schools and courses;

~~(2)~~(b) evaluating and approving courses for affiliation of student nurses; and

~~(3)~~(c) reviewing qualifications of applicants for licensure.

(2) The department shall hire as the executive director an individual who:

(a) is a graduate of an approved school of nursing and who has at least a master's degree with postgraduate courses in nursing;

(b) is licensed as a registered professional nurse in Montana; and

(c) has experience in teaching or administration in an approved school of nursing and who has completed at least 3 years in the clinical practice of nursing."

Section 45. Section 37-9-304, MCA, is amended to read:

"37-9-304. Fees. (1) Each person who applies for licensure~~, whether by waiver, examination, or reciprocation,~~ shall pay a fee prescribed by the board at the time of application.

(2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed by

the board. ~~A license expires on a date set by department rule and must be renewed upon timely payment of the license fee.~~

~~(3) The fee for issuing a duplicate license must be fixed by the board.~~"

Section 46. Section 37-9-305, MCA, is amended to read:

"37-9-305. ~~Renewal of registration and license~~ License -- grounds for discipline. ~~Each holder of a nursing home administrator's registration and license shall renew it by payment of the required fee for the next subsequent period prior to the expiration date of the currently valid registration and license, except as may be otherwise provided in 37-1-138. Renewals of registrations or licenses~~ A license must be granted as a matter of course. However, if the board finds, after notice and hearing, that the applicant has acted or failed to act in ~~a manner or under circumstances that would constitute grounds for discipline, it may not issue the renewal~~ accordance with this chapter, the board may find grounds for discipline."

Section 47. Section 37-10-302, MCA, is amended to read:

"37-10-302. ~~Examination -- qualifications~~ Qualifications -- application ~~-- issuance of certificate~~. (1) The board shall adopt rules relative to and governing the qualifications of applicants for certificates of registration as optometrists. ~~If the applicant does not meet the requirements of the rules, the applicant is not eligible to take an examination to practice optometry in this state. If the applicant meets the requirements of the rules, the applicant must pass an examination given by the national board of examiners in optometry on behalf of the department, subject to 37-1-101. Examinations must be practical in character and designed to ascertain the applicant's fitness to practice the profession of optometry and must be conducted in the English language. The department shall publish and distribute the examination requirements for a certificate to practice optometry in this state. The board may accept the grades an applicant has received in the written examinations given by the national board of examiners in optometry.~~

(2) A person is not eligible to receive a certificate of registration unless that person is 18 years of age or older and of good moral character.

(3) A person is not eligible to receive a certificate of registration unless that person has certificates of graduation from an accredited high school and from a school of optometry in which the practice and science of optometry is taught in a course of study covering 8 semesters or 4 years of actual attendance and that is accredited by the international association of boards of examiners in optometry.

(4) A person desiring a certificate of registration shall file ~~an~~ a completed application~~, in the manner~~

~~prescribed by the board,~~ on a form provided by the department and pay a fee prescribed by the board.

~~(5) A person who successfully passes the examination administered by the national board of examiners in optometry and who has met the requirements for qualification as an optometrist must be registered in a register kept by the department and, on the payment of a fee prescribed by the board, must receive a certificate of registration signed by the members of the board.~~"

Section 48. Section 37-10-304, MCA, is amended to read:

"37-10-304. Course in use of diagnostic and therapeutic drugs required. (1) (a) In addition to the requirements of 37-10-302, each person desiring to commence the practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners with consultation and approval by the board of optometrists with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions.

(b) A person presently licensed to practice optometry who wishes to employ diagnostic agents ~~must~~ shall satisfactorily complete a course referred to in subsection (1)(a) and ~~must~~ shall pass an examination ~~as provided in subsection (1)(d)~~.

(c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course must also be approved by the board.~~

~~(d) The board shall provide for an examination in competency in the use of diagnostic drugs and shall issue a certificate to those applicants who pass the examination.~~

(2) (a) Each person desiring to ~~commence the~~ practice ~~of~~ optometry shall:

(i) pass an examination, of the ~~international~~ association of regulatory boards ~~of examiners in~~ of optometry, on the diagnosis, treatment, and management of ocular disease; or

(ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular diseases. The course and examination must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course and examination must also be approved by the board.~~

(b) A person presently licensed to practice optometry who wishes to employ therapeutic pharmaceutical agents must meet the requirements of subsection (2)(a).

~~(c) The board shall:~~

~~(i) provide for an examination in competency in the diagnosis, treatment, and management of therapeutic pharmaceutical agents; and~~

~~(ii) issue a certificate to an applicant who passes the examination.~~"

Section 49. Section 37-11-201, MCA, is amended to read:

"37-11-201. General powers -- rulemaking ~~power -- records~~. ~~(1)~~ The board may:

~~(a)~~(1) adopt rules to ~~carry~~ implement this chapter ~~into effect~~;

~~(b) grant, suspend, and revoke licenses;~~

~~(c)~~(2) issue subpoenas requiring the attendance of witnesses or the production of books and papers; and

~~(d)~~(3) take any other disciplinary action necessary to protect the public.

~~(2) The board shall:~~

~~(a) examine applicants for licenses at reasonable places and times determined by the board;~~

~~(b) review the qualifications of applicants who are approved for examination for licensure;~~

~~(c) conduct written or computerized examinations that measure the qualifications of individual applicants along with any oral or practical examinations when determined by the board to be appropriate; and~~

~~(d) adopt rules to establish continuing education requirements of at least 20 hours biennially for license renewal for physical therapists and assistants, subject to the provisions of 37-1-138.~~

~~(3) The department shall keep a record of the board's proceedings under this chapter and a register of persons licensed under it. The register must show the name of every licensed physical therapist and licensed assistant, the therapist's or assistant's last-known place of business and last-known place of residence, and the date of issue and the number of every license and certificate issued to a licensed physical therapist or licensed assistant.~~

~~(4) The department shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every person licensed to practice medicine and surgery in the state. An interested person in the state is entitled to obtain a copy of the list on application to the department and payment of an amount not in excess of the cost of the list.~~

~~(5) The department may change addresses and surnames on the licensee's records only on the specific written request by the individual licensee.~~"

Section 50. Section 37-11-304, MCA, is amended to read:

"37-11-304. Application for examination ~~-- fee~~. ~~(1)~~ A person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to the department ~~in writing,~~ on a form furnished by the department. The person shall~~:~~

~~(a)~~ provide evidence ~~under oath~~, satisfactory to the board, of having the qualifications preliminary to the examination required by 37-11-303~~; and~~

~~(b) pay to the department at the time of filing the application a fee established by the board by rule. The fee must be commensurate with the cost of the examination and its administration and must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).~~

~~(2) Anyone failing to pass the required examination on the first attempt is entitled to take a second examination and, if the second examination is failed, to take a third examination. A person who fails the third examination is required to successfully complete additional education as required by the board before retaking the examination~~."

Section 51. Section 37-12-201, MCA, is amended to read:

"37-12-201. Organization of board ~~-- meetings~~ -- powers and duties. ~~(1)~~ The board shall:

(1) elect annually a president, vice president, and secretary-treasurer from its membership~~.~~;

~~(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates.~~

~~(3) The board shall:~~

~~(a)~~(2) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

~~(b) adopt a seal that must be affixed to licenses issued;~~

~~(c)~~(3) make a schedule of minimum educational requirements~~, which~~ that are without prejudice, partiality, or discrimination~~,~~ as to the different schools of chiropractic;

~~(d)~~(4) adopt rules necessary for the implementation, administration, continuation, and enforcement of this chapter. The rules must address but are not limited to license applications, ~~form and~~ the display of ~~license~~ licenses, ~~license examination format, criteria for and grading of examinations, disciplinary standards for licensees,~~ and the registration of interns and preceptors.

~~(e)~~(5) make determinations of the qualifications of applicants under this chapter; and

~~(f) administer the examination for licensure under this chapter;~~

~~(g) establish and collect fees, fines, and charges as provided in this chapter;~~

~~(h) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and~~

~~(i)~~(6) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified evaluator for purposes of 39-71-711.

~~(4) The department shall keep a record of the proceedings of the board, which must at all times be open to public inspection.~~"

Section 52. Section 37-12-302, MCA, is amended to read:

"37-12-302. Applications -- qualifications -- fees. (1) A person wishing to practice chiropractic in this state shall ~~make application~~ apply to the department~~,~~ on ~~the~~ a department form ~~and in the manner prescribed by the board~~. Each applicant must be a graduate of ~~or expect to graduate within 90 days prior to the next licensing examination administered by the board from~~ a college of chiropractic approved by the board~~, in which the applicant has attended a course of study of 4 school years of not less than 9 months each~~. The applicant shall present evidence showing proof of a bachelor's degree from an accredited college or university. ~~Application must be made in writing, must be sworn to by an officer authorized to administer oaths, and must recite the history of applicant's educational qualifications, how long the applicant has studied chiropractic, of what school or college the applicant is a graduate, and the length of time the applicant has been engaged in practice.~~ The application must be accompanied with copies of diplomas and certificates and satisfactory evidence of good character and reputation.

(2) The applicant shall pay to the department a license fee prescribed by the board. ~~A fee must also be paid for a subsequent examination and application.~~

(3) A person who is licensed in another state or who previously graduated from or was enrolled in a chiropractic college accredited by the council on chiropractic education on or before October 1, 1995, is exempt from the bachelor's degree requirement."

Section 53. Section 37-13-302, MCA, is amended to read:

"37-13-302. Application for licensure -- fee -- qualifications. (1) Each person desiring to practice acupuncture in this state shall ~~make application~~ apply to the board for licensure ~~with the secretary of the board, upon the forms and in the manner prescribed by the board~~. A fee prescribed by the board ~~shall~~ must accompany the application.

(2) ~~A person making application~~ An applicant shall furnish to the board evidence that ~~he~~ the applicant

is:

(a) at least 18 years of age;

(b) of good moral character~~,~~ as determined by the board;

(c) a graduate of ~~an approved~~ a school of acupuncture that is approved by the national accreditation commission for schools and colleges of acupuncture and oriental medicine and offers a course of at least 1,000 hours of entry-level training in recognized branches of acupuncture or an equivalent curriculum approved by the board; and

(d) has passed an examination ~~prepared and administered by the board or an examination~~ prepared and administered by the national commission for the certification of acupuncturists or its successor."

Section 54. Section 37-14-306, MCA, is amended to read:

"37-14-306. Permits. (1) The board may issue a permit to an applicant not qualifying for the issuance of a license under the provisions of this chapter but who has demonstrated~~,~~ to the satisfaction of the board~~,~~ the capability of performing high-quality x-ray procedures without endangering public health and safety. An applicant ~~must be required to~~ shall demonstrate this capability by completion of formal classroom training that meets the standards established by rule and by means of examination. Permits issued under provisions of ~~this section and~~ 37-14-305 ~~shall~~ and this section must specify x-ray procedures, defined and established by rule, that may be performed by the holder. Permits ~~shall be~~ are valid for a period not to exceed 12 months but may be renewed under the provisions established by rule.

~~(2) Examinations for the issuance of a permit must include a written portion and may also include practical and oral portions as established by the board. The board shall provide applicants for permits the opportunity for examination at intervals not to exceed 6 months. A nonrefundable examination fee, established by the board, must be submitted prior to examination for a permit. An applicant failing the examination must be charged a nonrefundable examination fee for any subsequent examination. An applicant failing any subsequent examination shall meet any additional eligibility requirements established by rule for reexamination.~~

~~(3)~~(2) ~~Applicants~~ An applicant meeting minimum requirements for licensure ~~shall~~ must be issued a temporary permit to work as a radiologic technologist. This temporary permit ~~shall expire~~ expires 15 days after the date of first opportunity for examination.

~~(4)~~(3) The board shall issue temporary permits to unlicensed persons to perform x-ray procedures when adequate evidence is provided to the board that ~~such~~ a temporary permit is necessary because of a regional hardship or emergency condition and that ~~such person~~ the prospective recipient of a temporary permit is capable

of performing x-ray procedures without endangering public health and safety. Temporary permits may not exceed 12 months in duration but may be renewed by reestablishing~~,~~ to the board's satisfaction~~,~~ evidence of continued regional hardship or emergency conditions. The required adequate evidence of regional hardship, emergency conditions, and capability to perform x-ray procedures without endangering public health and safety must be established by rule.

~~(5)~~(4) Each applicant for a permit must:

(a) be of good moral character;

(b) be at least 18 years of age; and

(c) not be addicted to intemperate use of alcohol or narcotic drugs."

Section 55. Section 37-16-202, MCA, is amended to read:

"37-16-202. Powers and duties. The powers and duties of the board are to:

(1) license persons who apply and are qualified to practice the fitting of hearing aids;

(2) establish a procedure to act as a grievance board to initiate or receive, investigate, and mediate complaints from any source concerning the activities of persons licensed under this chapter or their agents, whether licensed or not;

~~(3) suspend or revoke licenses under this chapter;~~

~~(4) designate the time and place for examining applicants for license and supervise and administer the examination;~~

~~(5)~~(3) adopt rules necessary to carry out this chapter;

~~(6)~~(4) require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons who practice or engage in the business of fitting or selling hearing aids;

~~(7) prepare examinations required by the chapter;~~

~~(8)~~(5) initiate legal action to enjoin from operation a person engaged in the sale, dispensing, or fitting of hearing aids in this state that is not licensed under this chapter;

~~(9)~~(6) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411. Rules adopted by the board may include but are not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411.

~~(10)~~(7) establish and adopt minimum requirements for the form of bills of sale and receipts."

~~**Section 54.** Section 37-16-404, MCA, is amended to read:~~

~~**"37-16-404. Examinations -- subject areas.** The examinations provided in 37-16-403~~ An examination ~~must consist of a test of knowledge and practical tests of proficiency, when they apply, in the following areas as they pertain to the fitting of hearing aids:~~

~~(1) acoustics:~~

~~(a) general principles;~~

~~(b) the decibel;~~

~~(c) hearing and speech;~~

~~(2) the human ear:~~

~~(a) external;~~

~~(b) middle;~~

~~(c) inner;~~

~~(3) the hearing process;~~

~~(4) disorders of hearing:~~

~~(a) conductive;~~

~~(b) sensorineural;~~

~~(c) central;~~

~~(d) psychogenic;~~

~~(5) audiometry:~~

~~(a) pure tone;~~

~~(b) theory;~~

~~(c) procedures;~~

~~(d) speech;~~

~~(6) the hearing analysis:~~

~~(a) audiogram;~~

~~(b) auditory area;~~

~~(7) hearing aids:~~

~~(a) history;~~

~~(b) characteristics;~~

~~(c) components;~~

~~(8) practical use of the otoscope:~~

~~(a) earmold;~~

~~(b) impression;~~

~~(9) fittings:~~

~~(a) hearing aid;~~

~~(b) earmold;~~

~~(10) delivery and checkup; or~~

~~(11) any change considered necessary by the board."~~

Section 56. Section 37-16-405, MCA, is amended to read:

"37-16-405. Trainee license. (1) An applicant who fulfills the requirements of 37-16-402 and who has not previously applied to take ~~the~~ a practical examination ~~under 37-16-403~~ may apply to the board for a trainee license.

(2) On receiving an application under subsection (1), accompanied by a fee fixed by the board and ~~commensurate with the cost of administering the license and related functions of the board and~~ verification that the applicant has passed the written portion of the examination with a passing score as determined by board rule, the board shall issue a trainee license that entitles the applicant to engage in a 180-day training period during which the applicant:

(a) is required to pass the practical examination administered by the board before being issued a hearing aid dispenser's license; and

(b) shall work under the direct supervision of the sponsoring licensed hearing aid dispenser. During this time the applicant may do the testing necessary for proper selection and fitting of hearing aids and related devices and make necessary impressions. However, the delivery and final fitting of the hearing aid and related devices must be made by the trainee and the supervisor.

(3) The training period must consist of a continuous 180-day term. Any break in training requires application for another trainee license under rules that the board may prescribe.

(4) A trainee license may not be issued unless the board has on file an unrevoked statement from a qualified licensed hearing aid dispenser accepting responsibility for the trainee. Every licensed hearing aid dispenser supervising a trainee license holder shall submit a report every 90 days of the trainee's activities and training assignments, on forms furnished by the board. The supervisor is responsible for all hearing aid fittings of the trainee. A supervisor may terminate any responsibilities to the trainee by mailing by certified mail written notice to the board and the trainee.

(5) ~~(a)~~ If a person who holds a trainee license takes and fails to pass the practical examination during the training period, the board may authorize the department to renew the trainee license for a period of 180 days, during which the provisions of subsection (2)(b) apply. ~~In no event may more~~ More than one renewal ~~be~~ is not permitted.

~~(b) The fee for renewal must be set by the board commensurate with the cost of administering the license and related functions of the board.~~

(6) A person licensed as an audiologist under the provisions of Title 37, chapter 15, or a person practicing pursuant to 37-1-305 is exempt from the 180-day training period but is required to pass the examinations prescribed in this chapter.

(7) A licensed hearing aid dispenser who sponsors a trainee is directly responsible and accountable under the disciplinary authority of the board for the conduct of the trainee as if the conduct were the licensee's own.

(8) For the purposes of this section, "direct supervision" means the direct and regular observation and instruction of a trainee by a licensed hearing aid dispenser who is available at the same location for prompt consultation and treatment."

Section 57. Section 37-17-302, MCA, is amended to read:

"37-17-302. ~~Application -- qualifications~~ Qualifications. ~~(1) Application for examination for licensure as a psychologist must be made on forms prescribed by the board.~~

~~(2)~~ The board shall license as a psychologist any person who pays the prescribed fee, passes the prescribed examination, and submits evidence ~~by oath~~ that the person:

~~(a)~~(1) is 18 years of age or older;

~~(b)~~(2) is of good moral character;

~~(c)~~ ~~(i)~~(3) (a) has received a doctoral degree in clinical psychology from an accredited college or university having an appropriate graduate program approved by the American psychological association;

~~(ii)~~(b) has received a doctoral degree in psychology from an accredited college or university not approved by the American psychological association and has successfully completed a formal graduate retraining program in clinical psychology approved by the American psychological association; or

~~(iii)~~(c) has received a doctoral degree in psychology from an accredited college or university and has completed a course of studies that meets minimum standards specified in rules by the board; and

~~(d)~~(4) has completed at the time of application a minimum of 2 years of supervised experience in the

practice of psychology. One year of this experience must be postdoctoral but may not include more than 6 months of supervised research, teaching, or a combination of both."

Section 58. Section 37-18-202, MCA, is amended to read:

"37-18-202. ~~Powers of board and department -- examinations~~ Rulemaking. ~~(1)~~ The board may adopt rules ~~and orders~~ necessary ~~for the performance of its duties, including but not limited to:~~

~~(a) prescribing of forms for application for examination and license;~~

~~(b) preparation of examinations; and~~

~~(c) clarifying the use of support personnel and the provision of emergency services.~~

~~(2) The department shall, subject to 37-1-101, supervise the examination of applicants for license to practice veterinary medicine, obtain the services of professional examination agencies instead of its own preparation of examinations, and grant and revoke licenses~~ to carry out the purposes of this chapter."

~~**Section 58.** Section 37-18-303, MCA, is amended to read:~~

~~**"37-18-303. Examination.** (1) Subject to 37-1-101, the board shall, by means of examination as prescribed by the board, ascertain the professional qualifications for license of applicants under this part. The department shall issue a license to applicants who are found to be, in the judgment of the board, competent to practice. A license may not be issued to a person who is not found by the examination or investigation to be competent and qualified.~~

~~(2) Examinations must be held as determined necessary by the board, but not less frequently than once each year at a time and place specified by the board. The board may employ, cooperate with, or contract with any organization or consultant in the preparation, administration, and grading of an examination, but the board shall retain sole discretion and responsibility for determining which applicants have successfully passed an examination.~~

~~(3) The department shall consecutively number applications received, note on each the disposition made of it, and preserve the applications for reference. The board shall also number consecutively licenses issued.~~

~~(4) An applicant is required to achieve a passing grade, as determined by the board by rule, in order to obtain a license. An applicant who has failed an examination may apply to be reexamined at a subsequent examination and shall pay another application fee commensurate with the costs of the examinations as set by the board and shall take another complete examination in all subjects."~~

Section 59. Section 37-19-401, MCA, is amended to read:

"37-19-401. License required -- display of license ~~-- renewal -- penalty for late renewal~~. ~~(1)~~ An operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

~~(2) A mortuary license expires on the date set by department rule and may be renewed upon payment of a fee set by the board.~~

~~(3) The board may set a penalty for late renewal of a mortuary license.~~"

Section 60. Section 37-19-702, MCA, is amended to read:

"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal. (1) A person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the cremation of human remains and that conducts cremations must be licensed by the board~~, beginning July 1, 1993~~. The license must be displayed in a conspicuous place in the crematory facility.

(2) A crematory license expires on the date set by department rule and may be renewed upon payment of a fee set by the board~~, which includes~~. The fee must include the cost of annual inspection. If a crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection of both a mortuary facility under 37-19-403 and a crematory facility.

~~(3) The board may set a penalty fee for late renewal of a license.~~

~~(4)~~(3) A person in charge of a licensed crematory facility must be licensed as a crematory operator by the board. A person employed by a licensed crematory facility must be licensed as a crematory technician by the board. The license must be displayed in a conspicuous place in the crematory facility.

~~(5)~~(4) Crematory operator and crematory technician licenses expire on the date set by department rule and may be renewed upon payment of a fee set by the board. On-the-job training must be provided to a crematory technician at the time of employment."

Section 61. Section 37-19-807, MCA, is amended to read:

"37-19-807. Powers and duties of board. The board is charged with administering this part. The board may:

(1) conduct reasonable periodic, special, or other examinations of a cemetery or cemetery company, including but not limited to an examination of the physical condition or appearance of the cemetery, an audit of the financial condition of the cemetery company and any trust funds maintained by the cemetery company, and

any other examinations the board considers necessary or appropriate in the public interest. The board may also order examinations in response to public complaints. The examinations must be made by members or representatives of the board that may include a certified or registered public accountant or any other person designated by the board.

(2) issue or amend permits to operate a cemetery in accordance with the provisions of this part;

(3) adopt rules ~~and forms~~ to enforce the provisions of this part;

(4) require a cemetery company to observe minimum accounting principles and practices and to keep books and records in accordance with the principles and practices for ~~the~~ a period ~~of time~~ that the board may by rule prescribe; and

(5) require a cemetery company to provide additional contributions to the perpetual care and maintenance fund of the cemetery as provided for in this part, including but not limited to contributions not to exceed $1,000 whenever a cemetery company fails to properly care for, maintain, or preserve a cemetery."

Section 62. Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a physician assistant-certified in the practice of medicine, as defined in 37-3-102, and a physician assistant-certified may not be employed or practice as a physician assistant-certified unless the physician assistant-certified:

(a) is supervised by a licensed physician;

(b) is licensed by the Montana state board of medical examiners; and

(c) has received board approval of a physician assistant-certified utilization plan.

(2) A physician assistant-certified utilization plan must set forth in detail the following information:

(a) the name and qualifications of the supervising physician, as provided in 37-20-101, and the name and license number of the physician assistant-certified;

(b) the nature and location of the physician's medical practice;

(c) the scope of practice of the physician assistant-certified and the locations where the physician assistant-certified will practice;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to act as an alternate supervising physician in the absence of the primary supervising physician;

(e) necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified; and

(f) other information the board may consider necessary.

(3) The board shall approve the utilization plan if ~~it~~ the board finds that the practice of the physician assistant-certified is:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the physician assistant-certified.

(4) A supervising physician and a physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the criteria set out in 37-20-402, so long as the information requirements of subsection (2) have been met and the appropriate fee provided for in 37-20-302~~(1)~~ has been paid.

(5) A utilization plan may provide that a physician assistant-certified be allowed to furnish services on a locum tenens basis at a location other than the physician assistant-certified's primary place of practice. A locum tenens utilization plan may be approved by a single board member."

Section 63. Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval and fee ~~-- renewal of license -- renewal fee~~. ~~(1)~~ A utilization plan must be submitted for approval, and a fee must be paid in an amount set by the board. Payment must be made when the utilization plan is submitted to the board and is not refundable.

~~(2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.~~

~~(3) A license issued under this part must be renewed for a period and on a date set by the department of labor and industry.~~

~~(4) A license renewal fee set by the board must be paid at the time the license is renewed.~~

~~(5) The department of labor and industry shall mail a renewal notice prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the license renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~

~~(7) Fees received by the department of labor and industry must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6).~~"

Section 64. Section 37-22-201, MCA, is amended to read:

"37-22-201. Duties of board. The board ~~shall~~:

~~(1) subject to 37-1-101, examine qualified applicants, issue licenses to qualified applicants that meet the requirements of this chapter, and renew licenses under the provisions of this chapter;~~

~~(2)~~(1) shall recommend prosecutions for violations of 37-22-411 and 37-23-311 to the attorney general or the appropriate county attorney, or both;

~~(3) annually publish a list of the names and addresses of all persons who are licensed social workers;~~

~~(4) establish requirements for continuing education that are a condition of license renewal;~~

~~(5)~~(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 22, and 23 ~~this section~~. The board may, once a year by a consensus of ~~its~~ board members, determine that there is no necessity for a board meeting.

~~(6) distribute a copy of the ethical standards to the certified masters of social work; and~~

~~(7)~~(3) shall adopt rules that set professional, practice, and ethical standards for ~~licensed masters of~~ social ~~work~~ workers and professional counselors and ~~such~~ other rules as may be reasonably necessary for the administration of chapter 23 and this chapter~~.~~; and

(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued."

Section 65. Section 37-22-301, MCA, is amended to read:

"37-22-301. License requirements -- exemptions. (1) A license applicant shall satisfactorily complete an examination ~~prepared and administered~~ prescribed by the board.

(2) Before an applicant may take the examination, the applicant shall present three letters of reference from licensed social workers, licensed clinical social workers, psychiatrists, or psychologists who have knowledge of the applicant's professional performance and shall demonstrate to the board that the applicant:

(a) has a doctorate or master's degree in social work from a program accredited by the council on social work education or approved by the board;

(b) has completed at least 24 months of supervised post master's degree work experience in psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years; and

(c) abides by the social work ethical standards adopted under 37-22-201.

~~(3) An applicant who submits an application for licensure before October 1, 1994, may acquire the~~

~~supervised experience required by subsection (2)(b) in less than 24 months.~~

~~(4)~~(3) An applicant who ~~has failed~~ fails the examination may reapply to take the examination.

~~(5)~~(4) An applicant is exempt from the examination requirement if the applicant satisfies the board that the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and that the applicant has passed an examination similar to that required by the board."

Section 66. Section 37-22-302, MCA, is amended to read:

"37-22-302. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~equal to the cost of processing the application.~~

~~(2) Each applicant for a license required to take an examination shall, prior to commencement of the examination, pay an examination fee set by the board equal to the cost of administering the examination.~~

~~(3) Each applicant shall, prior to receipt of a license or license renewal, pay a fee set by the board equal to the cost of issuing a license.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 67. Section 37-23-101, MCA, is amended to read:

"37-23-101. Purpose. The legislature finds and declares that because the profession of professional counseling profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by ensuring ethical, qualified, and professional practice of professional counseling. This chapter and the rules promulgated by the board under ~~37-23-103~~ 37-22-201 set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of professional counseling as licensed professional counselors."

Section 68. Section 37-23-202, MCA, is amended to read:

"37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily ~~completed~~:

(a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum~~, which~~ that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or

licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) ~~and~~ passed an examination prepared and administered by:

~~(i) the board, based on a national examination approved by the board;~~

~~(ii)~~(i) the national board of certified counselors; or

~~(iii)~~(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application ~~form and process prescribed by the board~~.

(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester ~~hour graduate degree that is~~ hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years."

Section 69. Section 37-23-203, MCA, is amended to read:

"37-23-203. ~~Issuance, effective date, and display~~ Display of license. ~~(1) If an applicant meets the requirements contained in 37-23-202 and has paid the appropriate fees, the board shall issue a license to the applicant attesting to the date and fact of licensure. The license is effective on the date of issuance and must be renewed as provided in 37-23-205.~~

~~(2)~~ The license received pursuant to 37-23-202 must be displayed in the registrant's place of business or employment."

Section 70. Section 37-23-206, MCA, is amended to read:

"37-23-206. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~commensurate with costs.~~

~~(2) Each applicant for a license required to take an examination shall, before commencement of the examination, pay an examination fee set by the board commensurate with costs.~~

~~(3) Each applicant shall, before receipt of a license or license renewal, pay a fee set by the board commensurate with costs.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 71. Section 37-24-202, MCA, is amended to read:

"37-24-202. Powers and duties of board. (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

~~(b) evaluate the qualifications of applicants for licensure under this chapter and approve and supervise the examination of applicants;~~

~~(c)~~(b) adopt rules relating to professional licensure and the establishment of ethical standards of practice under this chapter; and

~~(d) conduct hearings and keep records and minutes as the board considers necessary to carry out its functions; and~~

~~(e)~~(c) adopt a seal by which the board shall authenticate ~~its~~ board proceedings.

(2) A copy of the proceedings, records, or acts of the board, signed by the presiding officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of the document.

~~(3) The department may employ persons it considers necessary to carry out the provisions of this chapter.~~"

Section 72. Section 37-24-303, MCA, is amended to read:

"37-24-303. Requirements for licensure. (1) To be eligible for licensure by the board as an occupational therapist or an occupational therapy assistant, the applicant shall:

(a) present evidence of having successfully completed the academic requirements of an educational program recognized by the board for the license sought;

(b) submit evidence of having successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution where the person completed the academic requirements or by a nationally recognized professional association;

(c) submit evidence of having been certified by the national board for certification in occupational therapy, inc. (NBCOT); and

(d) pass an examination ~~as provided for in 37-24-304~~ prescribed by the board.

(2) The supervised fieldwork experience requirement for an occupational therapist is a minimum of 6 months. The supervised fieldwork experience requirement for an occupational therapy assistant is a minimum of 2 months."

Section 73. Section 37-24-310, MCA, is amended to read:

"37-24-310. Fees. ~~(1)~~ The board may adopt fees in accordance with 37-1-134 for:

~~(a)~~(1) applications for licensure;

~~(b) examination;~~

~~(c)~~(2) initial license issuance; and

~~(d) license renewal;~~

~~(e) late license renewal; and~~

~~(f)~~(3) limited permit issuance.

~~(2) All fees collected by the board under this section must be deposited in the state special revenue fund for the use of the board in administering this act, subject to 37-1-101(6).~~"

Section 74. Section 37-25-201, MCA, is amended to read:

"37-25-201. Powers and duties of the board. In addition to all other powers and duties conferred and imposed on the board by Title 37, chapter 1, and this chapter, the board shall~~:~~

~~(1) examine qualified applicants for a license to practice dietetics-nutrition, issue licenses to applicants who meet the requirements established by this chapter, and renew licenses as provided in 37-25-307; and~~

~~(2)~~ adopt rules that set professional, practice, and ethical standards for licensed nutritionists and ~~such~~ other rules as may be necessary for the administration of this chapter."

Section 75. Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

~~(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;~~

~~(4)~~(3) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

~~(5)~~(4) adopt rules that set nonrefundable fees~~, commensurate with costs,~~ for application, ~~examination,~~ and licensure~~, and other administrative services~~;

~~(6)~~(5) approve naturopathic medical colleges as defined in 37-26-103;

~~(7)~~(6) issue certificates of specialty practice;

~~(8)~~(7) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301;

~~(9)~~(8) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301; and

~~(10)~~(9) adopt rules to implement the provisions in 37-1-138."

Section 76. Section 37-26-403, MCA, is amended to read:

"37-26-403. Application for licensure -- examination -- temporary license. (1) A person who desires a license to practice naturopathic medicine in Montana shall apply to the department ~~in the manner and form prescribed by the board~~. The application must be accompanied by the license fees, the application fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the necessary qualifications and whether the applicant has committed unprofessional conduct that would be a basis for licensure denial. At the board's request, the applicant shall provide necessary authorizations for the release of records and information pertinent to the department's investigation.

(2) A person who applies for licensure but who has not passed a licensure examination prescribed or endorsed by the board shall apply to the board for authorization to take the prescribed licensure examination. ~~The application for examination must be accompanied by the examination fee.~~ If the board finds that all other qualifications for licensure except that of examination have been met, the board shall authorize the applicant to take the licensure examination."

Section 77. Section 37-27-105, MCA, is amended to read:

"37-27-105. General powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules may include but are not limited to:

~~(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;~~

~~(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989;~~

~~(c)~~(a) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

~~(d)~~(b) the development of eligibility criteria for client screening by direct-entry midwives ~~in order~~ to achieve the goal of providing midwifery services to women during low-risk pregnancies;

~~(e) the development of procedures for the issuance, renewal, suspension, and revocation of licenses consistent with the provisions in 37-1-138;~~

~~(f) the adoption of disciplinary standards for licensees;~~

~~(g)~~(c) the development of standardized informed consent and reporting forms;

~~(h)~~(d) the adoption of ethical standards for licensed direct-entry midwives;

~~(i)~~(e) the adoption of supporting documentation requirements for primary birth attendants; and

~~(j)~~(f) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201."

Section 78. Section 37-27-210, MCA, is amended to read:

"37-27-210. Fees. (1) An applicant for a direct-entry midwife license shall, upon submitting an application to the board, pay an application fee set by the board~~, commensurate with costs~~.

~~(2) An applicant required to take an examination shall, before commencement of the examination, pay an examination fee set by the board, commensurate with costs.~~

~~(3)~~(2) Before a license may be issued or renewed, an applicant shall pay a fee set by the board~~, commensurate with costs~~.

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~

~~(5)~~(3) Fees are nonrefundable."

Section 79. Section 37-28-104, MCA, is amended to read:

"37-28-104. Board powers and duties. (1) The board shall~~:~~

~~(a) examine,~~ license, grant temporary permits, and renew the licenses or permits of duly qualified applicants~~;~~

~~(b) establish examinations and passing scores for licensure under 37-28-202;~~

~~(c) adopt and implement rules for continuing education requirements to ensure the quality of respiratory care~~.

(2) The board may~~:~~

~~(a)~~ adopt rules necessary to implement the provisions of this chapter~~; and~~

~~(b) establish relicensing requirements and procedures that the board considers appropriate~~."

Section 80. Section 37-28-202, MCA, is amended to read:

"37-28-202. Licensing requirements -- examination -- fees. (1) To be eligible for licensure by the board as a respiratory care practitioner, the applicant shall:

(a) submit to the board an application fee in an amount established by the board and ~~a written~~ an application ~~on a form provided by the board~~ demonstrating that the applicant has completed:

(i) high school or the equivalent; and

(ii) a respiratory care educational program accredited or provisionally accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education or their successor organizations; and

(b) pass an examination prescribed by the board. The board may use the entry-level examination written by the national board for respiratory care or another examination that satisfies the standards of the national commission for health certifying agencies or the commission's equivalent.

(2) A person holding a license to practice respiratory care in this state may use the title "respiratory care practitioner" and the abbreviation "RCP"."

Section 81. Section 37-29-306, MCA, is amended to read:

"37-29-306. Licensing. (1) A denturist license is valid for a period established by department rule ~~and expires on the date set by department rule. A renewal license must be issued upon timely payment of the renewal fee and the submission of proof of continued qualification for licensure. In addition, the~~. A denturist shall submit proof that the denturist holds a current cardiopulmonary resuscitation card. ~~The license must bear on its face the address where the licensee's denturist services will be performed.~~

(2) ~~Applications~~ An application must be submitted on ~~forms approved by the board and~~ a form furnished

by the department. Each application must include all other documentation necessary to establish that the applicant meets the requirements for licensure and is eligible to take the licensure examination. ~~Applications~~ An application must be accompanied by the appropriate fees.

~~(3) This section may not be interpreted to conflict with 37-1-138.~~"

Section 82. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall prescribe rules for:

(1) the conduct of ~~its~~ board business;

(2) the qualification~~, examination,~~ and ~~registration~~ licensure of applicants to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or manicuring;

(3) the regulation and instruction of apprentices and students;

(4) the conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring for apprentices and students;

(5) the qualification and ~~registration~~ licensure of applicants for booth rental licenses; and

(6) generally the conduct of the persons, firms, or corporations affected by this chapter."

Section 83. Section 37-31-302, MCA, is amended to read:

"37-31-302. License required to practice, teach, or operate salon or shop, booth, or school. (1) A person may not practice or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license.

(2) A place may not be used or maintained for the teaching of barbering, cosmetology, electrology, esthetics, or manicuring for compensation ~~except under a certificate of registration~~ unless licensed as a school.

(3) A person may not operate or manage a salon or shop without a license.

(4) A person may not operate or conduct a school of barbering, cosmetology, electrology, esthetics, or manicuring or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license to teach barbering, cosmetology, electrology, esthetics, or manicuring.

(5) A person may not manage or operate a booth without a booth rental license.

(6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon or shop shall apply to the department for a ~~certificate of registration and~~ license. The application must be accompanied by the ~~registration~~ license fee.

(7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."

Section 84. Section 37-31-303, MCA, is amended to read:

"37-31-303. Application for license to practice or teach. An applicant for a license to practice or teach barbering, cosmetology, electrology, esthetics, or manicuring shall file an application ~~prescribed by the board~~ provided by the department and pass the examination prescribed by the board ~~in order~~ to qualify for licensure. ~~The license must be renewed in accordance with the provisions of 37-31-322.~~"

Section 85. Section 37-31-304, MCA, is amended to read:

"37-31-304. Qualifications of applicants for license to practice. (1) Before a person may practice:

(a) barbering, the person shall obtain a license to practice barbering from the department~~. Before a person may practice~~;

(b) cosmetology, the person shall obtain a license to practice cosmetology from the department~~. Before a person may practice~~;

(c) electrology, the person shall obtain a license to practice electrology from the department~~. Before a person may practice~~;

(d) manicuring, the person shall obtain a license to practice manicuring from the department unless the person is licensed to practice cosmetology~~. Before a person may practice~~; or

(e) esthetics, the person shall obtain a license to practice esthetics from the department unless the person is already licensed to practice cosmetology.

(2) (a) To be eligible to take the examination to practice barbering, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 1,500 hours in a ~~registered~~ licensed barbering school and must have received a diploma from the barbering school or must have completed the course of study in barbering at a school of cosmetology authorized to offer a course of study in barbering prescribed by the board.

(b) A person qualified under subsection (2)(a) shall file ~~a written~~ an application and deposit the application fee with the department and pass an examination as to fitness to practice barbering.

(c) The board shall issue a license to practice barbering, without examination, to a person licensed in

another state if the board determines that:

(i) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and

(ii) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.

(3) (a) To be eligible to take the examination to practice cosmetology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 2,000 hours in a ~~registered~~ licensed cosmetology school and must have received a diploma from the cosmetology school or must have completed the course of study in cosmetology prescribed by the board.

(b) A person qualified under subsection (3)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice cosmetology.

(4) (a) To be eligible to take the examination to practice electrology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of education, training, and experience in the field of electrology as prescribed by the board by rule.

(b) A person qualified under subsection (4)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice electrology.

(5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of manicuring. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or a certificate of completion from a vocational-technical program. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (5)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice manicuring.

(6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board and consisting of not less than 650 hours of training and instruction in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of esthetics. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (6)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice esthetics."

Section 86. Section 37-31-305, MCA, is amended to read:

"37-31-305. Qualifications of applicants for license to teach. (1) Before a person may teach manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics or to teach cosmetology, the person shall obtain from the department a license to teach cosmetology.

(2) To be eligible to take an examination to obtain a license to teach cosmetology, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized by the superintendent of public instruction; and

(b) (i) have a license to practice cosmetology issued by the department and have received a diploma from a ~~registered~~ licensed school of cosmetology approved by the board, certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(3) Before a person may teach manicuring to a person seeking only to be licensed to practice manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach manicuring.

(4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice manicuring or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(5) Before a person may teach esthetics to a person seeking only to be licensed to practice esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach esthetics.

(6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice esthetics or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(7) To be eligible to take an examination to obtain a license to teach barbering, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice barbering issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 500 hours of student teacher training; or

(ii) have been actively engaged as a barber for 3 continuous years immediately before taking the teacher's examination.

(8) To be eligible to take an examination for a license to teach electrology, a person must:

(a) be a high school graduate or possess an equivalent of a high school diploma recognized by the superintendent of public instruction;

(b) have a 100-hour teacher certificate; and

(c) have been actively engaged as an electrologist for 3 continuous years immediately preceding taking the teacher's examination."

Section 87. Section 37-31-308, MCA, is amended to read:

"37-31-308. ~~Examination -- reexamination -- exemption~~ Exemption for persons with disabilities. ~~(1) Examinations for a license to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach~~

~~barbering, cosmetology, electrology, esthetics, or manicuring must be held at places and times specified by the board. The examinations may not be confined to a specific method or system. The board may contract with an outside agency for examination and grading services.~~

~~(2)~~ ~~Persons~~ A person with a physical ~~disabilities~~ disability who is trained for barbering, cosmetology, electrology, esthetics, or manicuring by the department of public health and human services ~~are~~ is, for a period of 1 year immediately following ~~their~~ graduation, exempt from the examination and the fees described in 37-31-323. On certification from the department of public health and human services that a department of public health and human services beneficiary has successfully completed the required training in a school of barbering, cosmetology, electrology, esthetics, or manicuring, the department shall issue the person the necessary ~~certificate or~~ license to practice the profession in this state."

Section 88. Section 37-31-311, MCA, is amended to read:

"37-31-311. Schools -- ~~certificate of registration~~ license -- requirements -- bond -- curriculum. (1) A person, firm, partnership, corporation, or other legal entity may not operate a school for the purpose of teaching barbering, cosmetology, electrology, esthetics, or manicuring for compensation unless ~~a certificate of registration has been first obtained from~~ licensed by the department. Application for the ~~certificate~~ license must be filed with the department on ~~a~~ an approved form ~~prescribed by the board~~.

(2) A school for teaching barbering may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of barbering.

(c) It maintains a school term of not less than 1,500 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of barbering.

(3) A school for teaching cosmetology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of cosmetology.

(c) It maintains a school term of not less than 2,000 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of cosmetology.

(4) A school for teaching electrology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school maintains a school term~~, prescribes~~ and a course of practical training and technical instruction prescribed by the board, and possesses apparatus and equipment necessary for teaching electrology as prescribed by the board.

(5) A school for teaching manicuring may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of manicuring.

(b) It maintains a school term and ~~prescribes~~ a course of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of manicuring.

(6) A school for teaching esthetics may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the ready and full teaching of all subjects or practices of esthetics.

(b) It maintains a school term and a course consisting of not less than 650 hours of practical training and

technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of esthetics.

(7) Licenses ~~or certificates of registration~~ for schools of barbering, cosmetology, electrology, esthetics, or manicuring may be refused, revoked, or suspended as provided in 37-31-331.

(8) A teacher or student teacher may not be permitted to practice barbering, cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a course of student teacher training may not have, at any one time, more than one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

(9) The board may make further rules necessary for the proper conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring.

(10) The board shall require the person, firm, partnership, corporation, or other legal entity operating a school of barbering, cosmetology, electrology, esthetics, or manicuring to furnish a bond or other security in the amount of $5,000 and in a form and manner prescribed by the board.

(11) A professional salon or shop may not be operated in connection with a school of barbering, cosmetology, electrology, esthetics, or manicuring.

(12) The board may, by rule, establish a suitable curriculum for teachers' training in ~~registered~~ licensed schools of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 89. Section 37-31-312, MCA, is amended to read:

"37-31-312. Inspection. (1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or shops and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, school of barbering, school of cosmetology, school of electrology, school of esthetics, or school of manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit the inspection during business hours is cause for revocation of a licensee's or school's license ~~or a school's certificate of registration~~.

(2) Upon application for a license, a salon or shop shall pay an initial inspection fee prescribed by the board.

(3) The board may authorize the department to grant to a salon or shop, upon payment of the initial inspection fee, a temporary permit authorizing the salon or shop to operate for a period not to exceed 90 days

or until the inspector is able to make the inspection, whichever occurs first. A temporary permit is not renewable.

(4) The department shall require the inspector or inspectors, appointed as provided in subsection (1), to conduct an annual inspection of each salon or shop in the state."

Section 90. Section 37-31-323, MCA, is amended to read:

"37-31-323. Fees. (1) Fees for licenses ~~and certificates of registration~~ must be paid to the department in amounts prescribed by the board.

(2) The license ~~and registration~~ fees must be paid in advance to the department unless otherwise provided by board rule.

(3) Other or additional license ~~or registration~~ fees may not be imposed by a municipal corporation or other political subdivision of this state for the practice or teaching of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 91. Section 37-34-201, MCA, is amended to read:

"37-34-201. Powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of ~~a license application procedure and~~ acceptable certifications for each category of license;

~~(b) the establishment of license fees commensurate with actual costs;~~

~~(c)~~(b) the establishment of criteria for educational requirements that, at a minimum, meet the standards set forth in 37-34-303; and

~~(d) the development of procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses consistent with the provisions in 37-1-138;~~

~~(e) the adoption of disciplinary standards for licensees;~~

~~(f) the establishment of hearing procedures; and~~

~~(g)~~(c) a requirement that the supervisor of a clinical laboratory technician be accessible at all times that testing is being performed by the technician in order to provide onsite, telephonic, or electronic consultation."

Section 92. Section 37-34-305, MCA, is amended to read:

"37-34-305. Licensure application procedures. (1) An applicant shall submit an application for a license to the board ~~upon the forms prescribed and furnished by the board~~ and shall pay an application fee set by the board.

(2) Upon receipt of the application and fee, the ~~board~~ department shall issue a license for a clinical laboratory scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and 37-34-303.

~~(3) A license issued under this chapter must be renewed on or before the date set by department rule.~~

~~(4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~"

Section 93. Section 37-35-103, MCA, is amended to read:

"37-35-103. Department powers and duties. (1) The department shall:

(a) ~~examine,~~ license~~,~~ and renew the licenses of qualified applicants;

(b) adopt rules:

(i) for eligibility requirements and competency standards;

~~(ii) prescribing the time, place, content, and passing requirements of the licensure and competency examinations and passing scores for licensure under 37-35-202;~~

~~(iii) for application forms and fees for licensure and for renewal and licensure expiration dates; and~~

~~(iv)~~(ii) defining any unprofessional conduct that is not included in ~~37-1-316~~ 37-1-410; and

~~(c)~~(iii) ~~adopt and implement rules~~ setting criteria for training programs, internships, and continuing education requirements to ensure the quality of addiction counseling.

(2) The department may:

(a) adopt rules necessary to implement the provisions of this chapter;

(b) adopt rules specifying the scope of addiction counseling that are consistent with the education required by 37-35-202; and

(c) establish licensure requirements and procedures that the department considers appropriate."

Section 94. Section 37-40-302, MCA, is amended to read:

"37-40-302. Application -- examination -- certificate. (1) A person wishing to practice the profession of sanitarian may apply to the department for registration on a form ~~prescribed~~ furnished by the ~~board~~ department.

(2) An applicant must have a minimum of a bachelor's degree in environmental health or its equivalent from an accredited university or college ~~and shall pass an examination given at a time and place set by the board. The board shall establish procedures for examination and determination of passing scores by rule~~.

(3) If the applicant meets the board's standards and passes the examination prescribed by the board, the department shall issue a certificate of registration.

(4) ~~Holders~~ A holder of a current ~~certificates are~~ certificate is entitled to append to ~~their~~ the holder's name the initials "R.S."."

Section 95. Section 37-42-304, MCA, is amended to read:

"37-42-304. Application for operator's certificate -- fee. A person desiring to engage in the operation of a water treatment plant, water distribution system, or wastewater treatment plant shall first file an application with the department for a proper certificate. The department shall charge a fee of the same amount as the license cost ~~as established pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of processing the application is offset by federal funds received. The department may not act on an application until the fee has been paid."

Section 96. Section 37-42-308, MCA, is amended to read:

"37-42-308. Annual renewal -- fees -- revocation for failure to renew -- reinstatement -- notice of suspension. (1) Certificates issued under this chapter must be renewed annually before July 1. A certificate issued after July 1 expires the following June 30. After the payment of the initial fee under 37-42-304, a certificate holder shall pay before July 1 of each certificate year a renewal fee according to the schedule adopted by the department ~~pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of administering the certificate is offset by federal funds received to fund the administration of the program.

(2) Subject to subsection (6), if a certificate holder does not apply for a renewal of the certificate before July 1 and remit to the department the necessary renewal fee, the department shall suspend the certificate. Subject to subsection (6), the department shall revoke any certificate that remains suspended for a period of more than 30 days. However, the department, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of ~~its~~ the department's intention to revoke, at least 10 days before the time

set for action to be taken by the department on the certificate.

(3) A certificate once revoked may not be reinstated unless it appears that an injustice has occurred through error or omission or other fact or circumstances indicating to the department that the certificate holder was not guilty of negligence or laches.

(4) Notice of suspension must be given to the certificate holder when the suspension occurs and to the proper official or owner of the treatment works or distribution system.

(5) If a person whose certificate has been revoked through the person's own fault desires to continue as a water or wastewater plant operator, the person shall ~~make application~~ apply to the department under 37-42-304. Successful completion of an examination may be required at the discretion of the department.

(6) This section may not be interpreted to conflict with the provisions of 37-1-138."

Section 97. Section 37-47-101, MCA, is amended to read:

"37-47-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accompany" means to go with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in the area where the activity is being conducted and within sight or sound of the participant at some time during the furnishing of service.

(2) "Base of operations" means the primary physical location where an outfitter receives mail and telephone calls, conducts regular daily business, and bases livestock, equipment, and staff during the hunting season.

(3) "Board" means the board of outfitters provided for in 2-15-1773.

(4) "Camp" means each individual facility or group of facilities that an outfitter uses to lodge a client for a client's trip or uses to lodge a client in the operating area designated in the outfitter's operations plan, including a motel, campground, bed and breakfast, lodge, tent camp, cabin, camper, trailer, or house.

(5) "Consideration" means something of value given or done in exchange for something of value given or done by another.

(6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(7) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.

(8) "License year" means ~~that~~ the period ~~beginning January 1 and ending December 31 of the same year~~

indicated on the face of the license for which the license is valid.

(9) "Net client hunter use" or "NCHU" means the most actual clients served by an outfitter in any NCHU license category in any license year, as documented by verifiable client logs or other documents maintained by the board pursuant to 37-47-201~~(7)~~.

(10) "Nonresident" means a person other than a resident.

(11) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal; facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or professional guide in accompanying that person.

(12) "Participant" means a person using the services offered by a licensed outfitter.

(13) "Professional guide" means a guide who ~~has met~~ meets experience, training, and testing qualifications for designation as a professional guide, as set by board rule.

(14) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102."

Section 98. Section 37-47-201, MCA, is amended to read:

"37-47-201. Powers and duties of board relating to outfitters, guides, and professional guides. The board shall:

~~(1) prepare and publish an information pamphlet that contains the names and addresses of all licensed outfitters. This pamphlet must be available for free distribution as early as possible during each calendar year but not later than the second Friday in March. The pamphlet must contain the names and addresses of only those outfitters who have a valid license for the current license year.~~

~~(2)~~(1) cooperate with the federal government in matters of mutual concern regarding the business of outfitting and guiding in Montana;

~~(3)~~(2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;

~~(4)~~(3) establish outfitter standards, guide standards, and professional guide standards;

~~(5)~~(4) adopt:

~~(a) rules of procedure;~~

~~(b)~~(a) rules to administer and enforce this chapter, including rules prescribing all requisite qualifications

for licensure as an outfitter, guide, or professional guide. Qualifications for outfitters must include training, testing, experience in activities similar to the service to be provided, knowledge of rules of governmental bodies pertaining to outfitting and condition and type of gear and equipment, and the filing of an operations plan.

~~(c)~~(b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health, safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing or offering to practice as an outfitter, guide, or professional guide;

~~(d)~~(c) rules specifying standards for review and approval of proposed new operations plans involving hunting use or the proposed expansion of net client hunter use, as set forth in 37-47-316 and 37-47-317, under an outfitter's existing operations plan. Approval is not required when part or all of an existing operations plan is transferred from one licensed outfitter to another licensed outfitter. Rules adopted pursuant to this section must provide for solicitation and consideration of comments from hunters and sportspersons in the area to be affected by the proposal who do not make use of outfitter services.

~~(e)~~(d) rules establishing outfitter reporting requirements. The reports must be filed annually and report actual leased acreage actively used by clients during that year and actual leased acres unused by clients during that year, plus any other information designated by the board and developed in collaboration with the department of fish, wildlife, and parks or the review committee established in 87-1-269 that is considered necessary to evaluate the effectiveness of the hunter management and hunting access management programs.

~~(6)~~(5) hold hearings and proceedings to suspend or revoke licenses of outfitters, guides, and professional guides for due cause;

~~(7)~~(6) maintain records of actual clients served by all Montana outfitters that fulfill the requirements of subsection ~~(5)(e)~~ (4)(d)."

Section 99. Section 37-47-304, MCA, is amended to read:

"37-47-304. Application. (1) Each applicant for an outfitter's, guide's, or professional guide's license shall apply for a license on a form ~~prescribed and~~ furnished by the ~~board~~ department.

(2) The application for an outfitter's license forms the basis for the outfitter's operations plan and must include:

(a) the applicant's full name, residence, address, conservation license number, driver's license number, birth date, physical description, and telephone number;

(b) the address of the applicant's principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the

applicant;

(d) the experience of the applicant, including:

(i) years of experience as an outfitter, guide, or professional guide;

(ii) the applicant's knowledge of areas in which the applicant has operated and intends to operate; and

(iii) the applicant's ability to cope with weather conditions and terrain;

(e) a signed statement of the licensed outfitter for each guide and professional guide to be employed or retained as an independent contractor, stating that the guide or professional guide is to be employed by the outfitter and stating that the outfitter recommends the guide or professional guide for licensure;

(f) an affidavit by the outfitter to the board that the equipment listed on the application is in fact owned or leased by the applicant, is in good operating condition, and is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant;

(g) a statement of the maximum number of participants to be accompanied at any one time;

(h) the written approval of the appropriate agency or landowner on whose lands the applicant ~~will~~ intends to provide services or establish hunting camps; and

(i) the boundaries of the proposed operation, stating when applicable:

(i) the name and portion of river;

(ii) the county of location;

(iii) the legal owner of the property;

(iv) the name of the ranch;

(v) the proposed service, including the type of game sought;

(vi) the name of the agency granting use authority; and

(vii) other means of identifying boundaries as established by board rule.

(3) ~~Applications~~ An application for an outfitter's license must be in the name of an individual person only. ~~Applications~~ An application involving corporations, proprietorships, or partnerships must be made by one individual person who qualifies under the provisions of this part. A license issued pursuant to this part must be in the name of that person. Any revocation or suspension of a license is binding upon the individual person and the corporation, proprietorship, or partnership for the use and benefit of which the license was originally issued.

(4) Application must be made to and filed with the board.

(5) Only one application for an outfitter's license may be made in any license year. If an application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 37-47-308."

Section 100. Section 37-50-304, MCA, is amended to read:

"37-50-304. Public accountants -- licensure without examination of former military personnel -- examination otherwise required. (1) ~~Persons~~ A person serving in the armed forces of the United States on July 1, 1969, who immediately prior to entering ~~this service held themselves out~~ the armed forces represented to the public ~~as~~ that the person was a public ~~accountants~~ accountant and who ~~were~~ was engaged as ~~principals~~ a principal in this state in the practice of public accounting as ~~their~~ the person's principal occupation prior to service in the armed forces may register with the department within 6 months after the date of ~~their~~ the person's separation from active service and, on registration and payment of the license fee, be issued a license by the department as a licensed public accountant. A principal is either the owner of or a partner in an existing accounting practice on July 1, 1969.

(2) ~~In order to~~ To be issued a license as a licensed public accountant, a person who does not qualify under subsection (1) shall successfully complete those portions of the examination ~~provided for in 37-50-308~~ prescribed by the board by rule. The board may require successful completion of alternate portions of the examination for applicants holding valid United States treasury cards at the time of taking the examination."

Section 101. Section 37-51-204, MCA, is amended to read:

"37-51-204. Educational programs. (1) The board may, subject to 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in this connection.

(2) Except as provided in 37-51-302 and subsection (3) of this section, the board may not require examinations of licensees.

(3) The board may require specified performance levels of a licensee with respect to the subject matter of a continuing education course required ~~under 37-51-310~~ by the board when the licensee and the instructor of the course are not physically present in the same facility at the time the licensee receives the instruction."

Section 102. Section 37-51-303, MCA, is amended to read:

"37-51-303. Broker or salesperson examination. (1) In addition to proof of honesty, trustworthiness, and good reputation, an applicant whose application is pending shall satisfactorily pass an examination ~~prescribed by or under the supervision of the board. The examination must be given at least once each 6 months and at places within the state that the board prescribes~~.

(2) (a) The examination for a salesperson's license must include subject portions that the board

determines by rule to be appropriate.

(b) If the applicant passes one subject portion of the examination, the applicant is not required to repeat that portion of the examination if the applicant passes the remaining portion within 12 months.

(3) The examination for a broker's license must be of a more exacting nature and scope and more stringent than the examination for a salesperson's license."

Section 103. Section 37-51-305, MCA, is amended to read:

"37-51-305. License ~~-- form~~ -- delivery -- display -- pocket card. (1) ~~The board shall prescribe the form of license.~~ A license ~~shall~~ must bear the seal of the board.

(2) The license of a real estate salesperson ~~shall~~ must be delivered or mailed to the real estate broker with whom the real estate salesperson is associated and ~~shall~~ must be kept in the custody and control of the broker.

(3) A broker shall display ~~his~~ the broker's own license conspicuously in ~~his~~ the broker's place of business.

(4) The department shall annually prepare and deliver a pocket card certifying that the person whose name appears is a registered real estate broker or a registered real estate salesperson, stating the period for which fees have been paid and, on real estate salesperson's cards only, the name and address of the broker with whom ~~he~~ the real estate salesperson is associated."

Section 104. Section 37-51-603, MCA, is amended to read:

"37-51-603. Qualification of property manager applicants -- examination -- form of licenses. (1) The board by rule shall require an applicant for licensure to provide information that the board believes is necessary to ensure that a person granted a property manager license is of good repute and competent to transact the business of a property manager in a manner that safeguards the welfare and safety of the public.

(2) (a) The board shall require an applicant for a property manager license to:

(i) apply for licensure to the department;

(ii) furnish written evidence that the applicant has completed the number of classroom hours that the board determines appropriate in a course of study approved by the board and taught by instructors approved by the board; and

(iii) satisfactorily complete an examination dealing with the material taught in the course of study.

(b) The course of study must include the subjects of real estate leasing principles, real estate leasing law, and related topics.

~~(3) Examinations must be given at least once every 4 months at places within the state that the board prescribes. The board shall establish by rule the contents of and requirements to pass the examination.~~

~~(4)~~(3) An applicant for licensure as a property manager must be at least 18 years of age and must have graduated from an accredited high school or completed an equivalent education as determined by the board.

~~(5)~~(4) The ~~board shall prescribe the form of the license, and the~~ license must bear the seal of the board. A property manager shall display the license conspicuously in the property manager's place of business.

~~(6)~~(5) The department shall prepare and deliver to the licensee a pocket card in a form and at times prescribed by the board."

Section 105. Section 37-53-104, MCA, is amended to read:

"37-53-104. Rulemaking authority. The board shall adopt rules to carry out the provisions of this chapter. The rules may include but are not limited to:

(1) ~~format of forms for applications and renewal of registration~~ qualifications for applicants and ~~prescribing~~ any additional applicant information ~~to~~ that must be supplied;

(2) documents acceptable in lieu of registration documents under 37-53-204;

(3) conditions that may be placed upon registration under 37-53-212;

(4) the subject matter of the examination or continuing education requirement for license as a timeshare salesperson or timeshare broker; ~~and~~

(5) additional information included in a disclosure document; and

(6) fees established pursuant to 37-1-134."

Section 106. Section 37-60-304, MCA, is amended to read:

"37-60-304. Licenses -- application form and content. (1) Except as provided in 37-60-303(8), an application for a license must be made on ~~a~~ an approved form ~~prescribed by the board~~ and accompanied by the application fee set by the board.

(2) An application must be made under oath and must include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, a private investigator, or a private security guard;

(e) one recent photograph of the applicant, of a type prescribed by the board, and two classifiable sets of the applicant's fingerprints;

(f) a statement of the applicant's age and experience qualifications; and

(g) other information, evidence, statements, or documents as may be prescribed by the rules of the board.

(3) The board shall verify the statements in the application and the applicant's moral character.

(4) The submittal of fingerprints ~~must be~~ is a prerequisite to the issuance of a license by means of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

(5) The board shall send written notification to the chief of police, sheriff, and county attorney in whose jurisdiction the principal office of the applicant is to be located that an application has been submitted."

Section 107. Section 37-66-304, MCA, is amended to read:

"37-66-304. (Temporary) Qualifications not required -- application for licensure. (1) A person wishing to practice landscape architecture in this state shall apply to the department for a license and successfully pass ~~a written~~ an examination ~~established~~ prescribed by the board.

(2) Each applicant must be admitted to the examination without prerequisite qualifications. (Terminates September 30, 2005--sec. 78, Ch. 492, L. 2001.)

37-66-304. (Effective October 1, 2005) Qualifications and application for licensure. (1) A person wishing to practice landscape architecture in this state shall apply to the department for a license.

(2) Each applicant for licensure must have successfully completed the educational, practical experience, and ~~written~~ examination requirements ~~established~~ prescribed by the board."

Section 108. Section 37-67-303, MCA, is amended to read:

"37-67-303. Application -- contents -- examination -- fees. (1) ~~Applications~~ An application for licensure must be on ~~forms prescribed by the board and~~ a form furnished by the department~~, must contain statements made under oath showing the applicant's education and~~ that provides for a detailed summary of the applicant's technical work~~,~~ and that must contain the required references.

(2) The application fee for an engineer intern is as prescribed by the board and must accompany the application. An additional fee is not required for the issuance of a certificate.

(3) The application fee for licensure as a professional engineer is as prescribed by the board for those holding ~~an~~ a board-approved engineer intern certificate ~~validated for Montana. For those holding a valid engineer~~

~~intern certificate from some other state, the application fee is as prescribed by the board, which includes the cost of verification of engineer intern certification or licensure. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.~~

~~(4) The department, subject to approval by the board, may, on approval of the application and payment of an application fee as prescribed by the board, issue a license as a professional engineer to a person who holds a certificate of qualification or licensure issued to the person by the committee on national engineering certification of the national council of examiners for engineering and surveying or by a state, territory, or possession of the United States or by another country if the applicant's qualifications meet the requirements of this chapter and the rules of the board~~.

(4) An applicant for a license as a professional engineer shall file an application and satisfactorily pass an examination prescribed by the board. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.

(5) The application fee for a land surveyor intern is as prescribed by the board and must accompany the application. An additional fee is not required for issuance of a certificate.

(6) The application fee for licensure as a professional land surveyor is as prescribed by the board for those holding a board-approved land surveyor intern certificate ~~validated in Montana. For those holding a valid land surveyor intern certificate from some other state, the application fee is as prescribed by the board, which includes cost of verification of the certification~~. Upon approval of an application for licensure as a professional land surveyor and passage of the required ~~examination~~ examinations, the department shall issue a license as a professional land surveyor.

(7) (a) The application fee for licensure as both a professional engineer and professional land surveyor is as prescribed by the board for those holding board-approved engineer intern and land surveyor intern certificates ~~validated in Montana. For those holding valid engineer intern and land surveyor intern certificates from another jurisdiction, the application fee is as prescribed by the board~~.

(b) The fee must accompany the application. Upon approval of an application for licensure as a professional engineer and professional land surveyor and passage of the required examinations, the department shall issue a license.

(8) If the board denies the issuance of a license to any applicant, the initial fee deposited must be retained as an application fee."

Section 109. Section 37-67-321, MCA, is amended to read:

"37-67-321. Emeritus status. (1) A licensee who no longer practices engineering or land surveying may apply to the ~~board~~ department for emeritus status.

(2) Upon receiving an application for emeritus status accompanied by the fee established by the board, the ~~board~~ department shall issue a license of emeritus status to the applicant and record the applicant's name in the roster as an emeritus licensee, along with the date on which the licensee received emeritus status.

(3) An emeritus licensee may retain but may not use the licensee's seal and may not practice engineering or land surveying.

(4) The ~~board~~ department shall reissue a license to an emeritus licensee who pays all application fees, meets all current requirements for licensure, and demonstrates to the board's satisfaction that for the 2 years preceding the application for licensure, the applicant has met ~~the~~ requirements set by the board for maintaining professional competence ~~established under 37-67-315~~."

Section 110. Section 37-68-201, MCA, is amended to read:

"37-68-201. Organization -- meetings -- rulemaking power -- seal. (1) Each July, the board shall elect from its membership a president, vice president, and secretary-treasurer.

(2) The board shall meet quarterly and at other times ~~it~~ that the board considers necessary.

(3) The board ~~may~~ SHALL:

(a) adopt rules for the administration of this chapter~~;~~ ~~and~~, for the licensing of electrical contractors~~;~~, and ~~for the examination and licensing of~~ FOR THE EXAMINATION OF master and journeyman electricians;

(b) adopt a seal;

(c) cause the prosecution and enjoinder of persons violating this chapter."

Section 111. Section 37-68-304, MCA, is amended to read:

"37-68-304. Master electricians -- application -- qualifications -- ~~contents of~~ CONTENTS OF examination -- fees. (1) An applicant for a master electrician's license shall furnish written evidence of being a graduate electrical engineer of an accredited college or university and of having 1 year of LEGALLY OBTAINED practical electrical experience or that the applicant is a graduate of an electrical trade school and has at least 4 years of LEGALLY OBTAINED practical experience in electrical work or has had at least 5 years of LEGALLY OBTAINED practical experience in planning, laying out, or supervising the installation and repair of wiring, apparatus, or equipment for electrical light, heat, and power.

(2) ~~Applicants~~ An applicant for a license as a master electrician shall file an application on ~~forms prescribed by the board and~~ a form furnished by the department, submit appropriate fees, and satisfactorily pass an examination prescribed by the board. ~~The board shall, not less than 30 days prior to a scheduled examination, notify each applicant that the evidence submitted with the applicant's application is sufficient to qualify to take the examination or that the evidence is insufficient and is rejected. If the application is rejected, the board shall set forth the reasons in the notice to the applicant. The place of examinations must be designated by the board, and examinations must be held at least once a year and at other times as, in the opinion of the board, the number of applicants warrants.~~

~~(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the national electric code;~~

~~(b) cost estimating for electrical installments;~~

~~(c) procurement and handling of materials needed for electrical installations and repair;~~

~~(d) reading blueprints for electrical work;~~

~~(e) drafting and layout of electrical circuits; and~~

~~(f) knowledge of practical electrical theory.~~

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~ THE BOARD SHALL, NOT LESS THAN 30 DAYS PRIOR TO A SCHEDULED EXAMINATION, NOTIFY EACH APPLICANT THAT THE EVIDENCE SUBMITTED WITH THE APPLICANT'S APPLICATION IS SUFFICIENT TO QUALIFY TO TAKE THE EXAMINATION OR THAT THE EVIDENCE IS INSUFFICIENT AND IS REJECTED. IF THE APPLICATION IS REJECTED, THE BOARD SHALL SET FORTH THE REASONS IN THE NOTICE TO THE APPLICANT. THE PLACE OF EXAMINATIONS MUST BE DESIGNATED BY THE BOARD, AND EXAMINATIONS MUST BE HELD AT LEAST ONCE A YEAR AND AT OTHER TIMES AS, IN THE OPINION OF THE BOARD, THE NUMBER OF APPLICANTS WARRANTS.

(3) THE EXAMINATION MUST CONSIST OF AT LEAST 30 QUESTIONS DESIGNED TO FAIRLY TEST THE APPLICANT'S KNOWLEDGE AND THE APPLICANT'S TECHNICAL APPLICATION IN THE FOLLOWING SUBJECTS:

(A) THE NATIONAL ELECTRIC CODE;

(B) COST ESTIMATING FOR ELECTRICAL INSTALLMENTS;

(C) PROCUREMENT AND HANDLING OF MATERIALS NEEDED FOR ELECTRICAL INSTALLATIONS AND REPAIR;

(D) READING BLUEPRINTS FOR ELECTRICAL WORK;

(E) DRAFTING AND LAYOUT OF ELECTRICAL CIRCUITS; AND

(F) KNOWLEDGE OF PRACTICAL ELECTRICAL THEORY.

(4) THE BOARD SHALL DETERMINE BY RULE THE FEES TO BE CHARGED AN APPLICANT FOR EACH EXAMINATION OR REEXAMINATION. THE FEES MUST BE COMMENSURATE WITH COSTS."

Section 112. Section 37-68-305, MCA, is amended to read:

"37-68-305. Journeyman and residential electricians -- application -- qualifications -- contents of examination. (1) An applicant for a journeyman electrician's license shall furnish written evidence of at least 4 ~~years'~~ years of apprenticeship in the electrical trade or 4 ~~years'~~ years of LEGALLY OBTAINED practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power. Applications for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~ THE EXAMINATION FOR A JOURNEYMAN'S LICENSE MUST CONSIST OF AT LEAST 30 QUESTIONS DESIGNED TO FAIRLY TEST THE APPLICANT'S KNOWLEDGE AND THE APPLICANT'S TECHNICAL APPLICATION IN THE FOLLOWING SUBJECTS:

(A) THE OHM'S LAW;

(B) THE NATIONAL ELECTRIC CODE; AND

(C) LAYOUT AND PRACTICAL INSTALLATION OF ELECTRICAL CIRCUITS.

(2) An applicant for a residential electrician's license shall furnish written evidence of at least 2 ~~years'~~ years of apprenticeship in the electrical trade or 2 ~~years'~~ years of LEGALLY OBTAINED practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power in residential construction consisting of less than five living units in a single structure. Application for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~ THE EXAMINATION FOR A RESIDENTIAL ELECTRICIAN'S LICENSE MUST CONSIST OF AT LEAST 30 QUESTIONS DESIGNED TO FAIRLY TEST THE APPLICANT'S KNOWLEDGE AND THE APPLICANT'S TECHNICAL APPLICATION IN THE FOLLOWING SUBJECTS:

(A) THE OHM'S LAW;

(B) THE NATIONAL ELECTRIC CODE; AND

(C) LAYOUT AND PRACTICAL INSTALLATION OF ELECTRICAL CIRCUITS."

SECTION 113. SECTION 37-68-307, MCA, IS AMENDED TO READ:

"37-68-307. Examination procedure -- third-party services ~~-- issuance of master, journeyman, or residential electrician's license -- expiration~~. ~~(1)~~ To ensure impartiality, the examination for either the residential, master's, or journeyman's license must be administered by the department. The department may use a third party to provide examination and grading services. The examination passing grade is 75%.

~~(2) If it is determined that the applicant has passed the examination, the department shall issue to the applicant a license that authorizes the licensee to engage in the business, trade, or calling of a residential electrician, journeyman electrician, or master electrician.~~

~~(3) Each original license expires on the renewal date established by the department by rule if it is not more than 3 years after the date of issuance.~~"

SECTION 114. SECTION 37-68-310, MCA, IS AMENDED TO READ:

"37-68-310. ~~License renewal period -- renewal~~ Renewal of lapsed licenses. (1) ~~Licenses of residential electricians, journeyman electricians, or master electricians, unless they have been suspended or revoked by the board or unless the department changes the duration of the renewal period, must be renewed for a period of 3 years by the department on application for renewal made to the department on or before the renewal date set by department rule and on the payment of a renewal fee. If application for renewal is not made on or before the renewal date, an additional fee prescribed by board rule must be paid.~~ It is unlawful for a person who refuses or fails to pay the renewal fee to practice electrical work in this state. A person with a lapsed license may be issued a renewal license without examination if the applicant pays the original renewal fee and any delinquency fee within 1 year of the license expiration date. Subject to subsection (2), a lapsed license that is not renewed within 1 year following its expiration date may not be renewed unless the applicant passes the examination and pays the fee required for an original license.

(2) This section may not be interpreted to conflict with 37-1-138."

Section 115. Section 37-68-312, MCA, is amended to read:

"37-68-312. Electrical contractor's license -- application ~~-- issuance~~ -- fees ~~-- renewal~~. Each

electrical contractor shall, on or before the date set by department rule, file with the department an application ~~in writing~~ together with the appropriate fees for each firm operated by the electrical contractor in this state ~~for renewal of the license. A license may not be issued or renewed until the applicant meets the licensure requirements and has paid to the department a license fee set by the board for each firm operated by the electrical contractor. Licenses must bear the date of issuance or renewal. A license must be renewed for a 3-year period upon payment to the department of the license fee on or before the renewal date and upon meeting the requirements set by board rule~~."

Section 116. Section 37-69-304, MCA, is amended to read:

"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by applicants for a journeyman plumber's license:

(a) a specific record of 5 ~~years'~~ years of LEGALLY OBTAINED experience in the field of plumbing ~~of a character satisfactory to the board~~. This experience requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or pay records, or by completing an apprenticeship program meeting the standards set by the department ~~of labor and industry~~ or the United States department of labor, bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of an examination ~~conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing~~ prescribed by the board CONDUCTED BY THE DEPARTMENT, SUBJECT TO 37-1-101(4), TESTING THE APPLICANT'S KNOWLEDGE OF TECHNIQUES AND METHODS EMPLOYED IN THE FIELD OF PLUMBING AND ESTABLISHING BY PRACTICAL DEMONSTRATION COMPETENCE IN THE SPECIAL SKILLS REQUIRED IN THE FIELD OF PLUMBING.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board.

~~(3) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~

~~(4) The department may use a third party to provide examination and grading services.~~"

Section 117. Section 37-69-305, MCA, is amended to read:

"37-69-305. Qualifications of applicants for master plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by an applicant for a master plumber's license:

(a) evidence of 4 ~~years'~~ years of experience as a licensed journeyman plumber in the field of plumbing, verified by time or pay records of actual plumbing experience;

(b) evidence of 3 ~~years'~~ years of experience working with a licensed master plumber or in a supervisory capacity in the field of plumbing, which may run concurrently with the requirement in subsection (1)(a); and

(c) satisfactory completion of an examination ~~for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing~~ prescribed by the board FOR MASTER PLUMBERS TESTING THE APPLICANT'S KNOWLEDGE OF THE FIELD OF PLUMBING AND DEMONSTRATING SKILL AND ABILITY IN THE FIELD OF PLUMBING.

(2) For purposes of subsection (1), ~~a year's~~ 1 year of experience is 1,500 hours or more of work in a continuous 12-month period.

(3) A master plumber may not allow the master plumber's license to be used by any person or firm, corporation, or business other than the master plumber's own for the purpose of obtaining permits or for doing plumbing work under the license.

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.~~

~~(5) The department may use a third party to provide examination and grading services.~~"

Section 118. Section 37-69-306, MCA, is amended to read:

"37-69-306. Examination -- issuance of license. (1) An applicant for a license to work in the field of plumbing ~~shall be examined as to his qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine his skill and qualifications as a master plumber or journeyman plumber.~~

~~(2) The applicant~~ MUST BE EXAMINED AS TO THE APPLICANT'S QUALIFICATIONS BY THE DEPARTMENT, SUBJECT TO 37-1-101(4). THE DEPARTMENT SHALL EXAMINE EACH APPLICANT FOR A LICENSE TO DETERMINE THE APPLICANT'S SKILL AND QUALIFICATIONS AS A MASTER PLUMBER OR JOURNEYMAN PLUMBER.

(2) THE APPLICANT must, upon successfully passing ~~the~~ an examination prescribed by the board, ~~shall~~ be issued a license authorizing ~~him~~ the applicant to engage in the field of plumbing as a master plumber or

journeyman plumber in the state of Montana.

~~(3)~~(2)(3) In the case of a firm or corporation, the examination and issuance of a license to an individual of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master plumbers but not as to journeyman plumbers. ~~No~~ An individual, firm, or corporation may not do the work of a master plumber unless licensed under this chapter.

~~(4)~~(3)(4) In addition to the temporary permits authorized in 37-1-305, the ~~board department~~ BOARD may, ~~on a case-by-case basis at the board's discretion and~~ ON A CASE-BY-CASE BASIS AT THE BOARD'S DISCRETION in accordance with criteria determined by ~~the board department rule~~ THE BOARD, renew a temporary practice permit for a person who fails the first license examination for which the person is eligible ~~but who submits a temporary practice permit renewal application to the board stating that the person intends to retake the license examination on the next available date~~."

Section 119. Section 37-69-401, MCA, is amended to read:

"37-69-401. Medical gas piping installation endorsement. (1) A medical gas piping installation endorsement entitles the holder to install pipe used solely for transporting gases used for medical purposes.

(2) To be eligible for endorsement under this section, a person must meet all requirements for endorsements established by the board by rule.

(3) A person with a valid medical gas piping installation endorsement from another state may install medical gas piping in this state.

(4) The board shall by rule establish the requirements for obtaining a medical gas piping installation endorsement. ~~Fees must be established by rule and must be commensurate with the costs of administering the medical gas piping installation endorsement program.~~"

Section 120. Section 37-72-102, MCA, is amended to read:

"37-72-102. Penalty -- injunction. (1) A person convicted of violating any provision of this chapter or the rules of the department is guilty of a misdemeanor and shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed $500, or both.

(2) The district court may enjoin any violation or threatened violation of the requirements of 37-72-101, 37-72-201, 37-72-202, ~~or~~ 37-72-301 ~~through~~, 37-72-302, 37-72-304, 37-72-305, or 37-72-307 or the rules of the department as a nuisance per se; and the department, the attorney general, or any county attorney may institute proceedings for an injunction."

Section 121. Section 37-72-202, MCA, is amended to read:

"37-72-202. General rulemaking power. The department shall adopt rules to:

(1) implement the training and experience requirements of 37-72-302;

(2) prescribe the amount of the fees provided for in 37-72-301 ~~and 37-72-303 through 37-72-306~~, 37-72-304, and 37-72-305, which must be nonrefundable, in an amount commensurate with the cost of administering this chapter, and deposited in the state special revenue fund for the use of the department;

(3) regulate the use of explosives and grant variances under the provisions of 37-72-201, except that, unless the department is making an investigation under 37-72-203(2), the department does not have the power under this chapter to make inspections into construction blasting and may not adopt rules providing for ~~such~~ inspections related to construction blasting or for inspectors to carry out ~~such~~ inspections related to construction blasting;

(4) provide for the form of the license and pocket card provided for in 37-72-307; and

(5) provide for the conduct of the business of the department under this chapter and govern ~~its~~ department proceedings under 37-72-203."

Section 122. Section 37-72-305, MCA, is amended to read:

"37-72-305. Licensure of persons licensed by other jurisdictions. Upon receipt of an application and application fee, the department shall issue a license to any person fulfilling the requirements of 37-72-301(2)(a) through (2)(d) who holds a certificate, license, or permit, issued by another state or any agency of the United States, allowing the person to supervise or engage in the practice of construction blasting if the department finds that the certificate, license, or permit was issued upon the satisfactory completion of requirements substantially equivalent to the requirements of 37-72-301 ~~through 37-72-303~~ and 37-72-302."

Section 123. Section 37-76-109, MCA, is amended to read:

"37-76-109. Registration and renewal fees. (1) An application for registration or renewal of registration must be accompanied by a fee ~~of $200~~.

(2) All fees and money received by the department must be deposited in ~~a~~ the state special revenue fund in an account for use by the department in performing the duties required by this chapter."

Section 124. Section 50-16-201, MCA, is amended to read:

"50-16-201. Definitions. As used in this part, the following definitions apply:

(1) (a) "Data" means written reports, notes, or records or oral reports or proceedings created by or at the request of a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee of a health care facility that are used exclusively in connection with quality assessment or improvement activities, including the professional training, supervision, or discipline of a medical practitioner by a health care facility.

(b) The term does not include:

(i) incident reports or occurrence reports; or

(ii) health care information that is used in whole or in part to make decisions about an individual who is the subject of the health care information.

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) (a) "Incident reports" or "occurrence reports" means a written business record of a health care facility, created in response to an untoward event, such as a patient injury, adverse outcome, or interventional error, ~~in order to ensure~~ for the purpose of ensuring a prompt evaluation of the event.

(b) The terms do not include any subsequent evaluation of the event in response to an incident report or occurrence report by a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee.

(4) "Medical practitioner" means an individual licensed by the state of Montana to engage in the practice of medicine, osteopathy, podiatry, optometry, or a nursing specialty described in 37-8-202~~(5)~~ or licensed as a physician assistant-certified pursuant to 37-20-203."

Section 125. Section 50-74-312, MCA, is amended to read:

"50-74-312. Review of license rejection -- waiting period. (1) An applicant for a license under the provisions of this chapter whose application has been rejected may, within 45 days after the date of the rejection, set forth in writing any arguments opposing the rejection and request a review by the department. The request must be addressed to the department and must be signed by the applicant.

(2) Within 2 days after receiving the request, the department shall notify the applicant in writing that on a certain day, not less than 5 days or more than 30 days after receipt of the written request, the department shall review and evaluate the application and any arguments opposing the rejection of the license application.

(3) The applicant may appear in person at the review. At least 2 days before the day set for the review, the applicant may designate in writing to the department ~~of labor and industry~~ the name of an engineer holding a valid license of equal or higher grade than the one applied for, and the engineer may testify on behalf of the

applicant at the review.

(4) After the review, if the department ~~of labor and industry~~ determines that the applicant is entitled to the license, the department shall issue the license. If the department affirms the decision to not issue the license, the applicant ~~is required to~~ may reapply to take the license examination, as provided in ~~50-74-309 and~~ 50-74-311, and may not take the examination within 45 days of the final decision to not issue the license."

Section 126. Section 80-8-207, MCA, is amended to read:

"80-8-207. Dealers. (1) ~~It is unlawful for a~~ A person ~~to~~ may not sell, offer for sale, deliver, or have delivered within the state a pesticide without first obtaining a license from the department for each calendar year or portion of a year. A separate dealer's license and fee is required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. Pesticide field personnel or salespeople employed directly out of the same location or outlet and under a licensed dealer are not required to obtain a license. The dealer shall furnish the department with the names and addresses of ~~its~~ the dealer's field personnel and salespeople selling pesticides within the state.

(2) The application for a license must be accompanied by a fee of $45. ~~Dealers~~ A dealer applying for renewal of a license shall ~~do so~~ apply on or before March 1 of the calendar year. A dealer applying for renewal of a license after March 1 must be assessed a $25 late licensing fee.

(3) The dealer shall require the purchaser of a restricted pesticide to exhibit the purchaser's license or permit issued under authority of this chapter, or the dealer may verify, under procedures authorized by the department, the purchaser's license or permit through a department list or by electronic means before completing a sale. The department may adopt rules concerning dealer verification of licenses and permits.

(4) The department shall assess an additional annual license fee of $10 on dealers to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than $10 a year or more than $15 a year. Fees collected under this subsection must be deposited in an account in the state special revenue ~~account~~ fund pursuant to 80-8-112.

(5) Pharmacists licensed as provided for in 37-7-302 ~~and 37-7-303~~, veterinarians licensed as provided for in 37-18-302 ~~and 37-18-303~~, and certified pharmacies licensed under 37-7-321 are not required to be licensed to sell pesticides~~, provided that~~ if the certified pharmacies and veterinarians register with the department each year. However, the certified pharmacies and veterinarians ~~shall~~ must meet all other requirements concerning the

commercial sale of pesticides. The department shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

NEW SECTION. **Section 127. Repealer.** Sections 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, ~~37-68-307, 37-68-310,~~ 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, and 50-76-105, MCA, are repealed.

NEW SECTION. **Section 128. Effective date.** [This act] is effective July 1, 2005.

- END -

HOUSE BILL NO. 182

INTRODUCED BY ROBERTS

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CONSOLIDATING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; DISTINGUISHING BETWEEN DEPARTMENT AND BOARD OR PROGRAM DUTIES REGARDING LICENSURE, EXAMINATION, AND FEES; CLARIFYING THE DETERMINATION AND DISTRIBUTION OF FEES FOR LICENSURE, EXAMINATION, AND ADMINISTRATIVE COSTS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO HANDLE CERTAIN TASKS RELATED TO BOARDS, INCLUDING MONITORING OF LICENSING BOARDS' CASH BALANCES AND HIRING SERVICES FOR BOARDS; ALLOWING FOR FEE ADJUSTMENTS; REQUIRING STANDARDIZATION OF FORMS; INCLUDING DEPARTMENT PROGRAMS UNDER CERTAIN PROVISIONS APPLICABLE TO BOARDS; SETTING UNIFORM STANDARDS FOR LICENSE RENEWALS, INCLUDING RENEWAL PERIODS; REVISING CERTAIN NOTIFICATION PERIODS; REMOVING SPECIFIC BOARD OR PROGRAM REFERENCES IF DUTIES ARE ASSIGNED TO THE DEPARTMENT OR PROVIDED GENERALLY TO ALL BOARDS; ~~REQUIRING BOARD OF HORSERACING REVIEW OF IMPACTS;~~ REMOVING THE REQUIREMENT TO PUBLISH AN ANNUAL LIST OF SOCIAL WORKERS AND PROFESSIONAL COUNSELORS; REMOVING CERTAIN SPECIFIED LICENSING PERIODS; REMOVING THE PUBLICATION REQUIREMENT FOR OUTFITTERS' NAMES AND ADDRESSES; REPEALING CERTAIN BOARD-SPECIFIC OR PROGRAM-SPECIFIC REFERENCES TO LICENSURE, EXAMINATIONS, AND FEES; AMENDING SECTIONS 23-3-501, 23-4-105, 23-4-201, 27-12-206, 33-30-1013, 37-1-101, 37-1-104, 37-1-105, 37-1-121, 37-1-130, 37-1-131, 37-1-134, 37-1-141, 37-1-302, 37-1-306, 37-1-307, 37-2-101, 37-3-203, 37-3-211, 37-3-301, 37-3-305, 37-3-306, 37-3-307, 37-3-309, 37-3-311, 37-3-313, 37-3-341, 37-3-342, 37-3-343, 37-3-344, 37-3-347, 37-4-301, 37-4-307, 37-4-402, 37-4-406, 37-6-304, 37-7-104, 37-7-302, 37-7-321, 37-7-605, 37-7-606, 37-8-102, 37-8-202, 37-9-304, 37-9-305, 37-10-302, 37-10-304, 37-11-201, 37-11-304, 37-12-201, 37-12-302, 37-13-302, 37-14-306, 37-16-202, ~~37-16-404,~~ 37-16-405, 37-17-302, 37-18-202, ~~37-18-303,~~ 37-19-401, 37-19-702, 37-19-807, 37-20-301, 37-20-302, 37-22-201, 37-22-301, 37-22-302, 37-23-101,37-23-202, 37-23-203, 37-23-206, 37-24-202, 37-24-303, 37-24-310, 37-25-201, 37-26-201, 37-26-403, 37-27-105, 37-27-210, 37-28-104, 37-28-202, 37-29-306, 37-31-203, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, 37-34-201, 37-34-305, 37-35-103, 37-40-302, 37-42-304, 37-42-308, 37-47-101, 37-47-201, 37-47-304, 37-50-304, 37-51-204, 37-51-303, 37-51-305, 37-51-603, 37-53-104, 37-60-304,

37-66-304, 37-67-303, 37-67-321, 37-68-201, 37-68-304, 37-68-305, 37-68-307, 37-68-310, 37-68-312, 37-69-304, 37-69-305, 37-69-306, 37-69-401, 37-72-102, 37-72-202, 37-72-305, 37-76-109, 50-16-201, 50-74-312, AND 80-8-207, MCA; REPEALING SECTIONS 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, ~~37-68-307, 37-68-310,~~ 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, AND 50-76-105, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-3-501, MCA, is amended to read:

"23-3-501. Licenses -- fees. (1) The board may issue a license to a professional or semiprofessional boxing or wrestling promoter, whether an individual or organization, for the sole purpose of conducting professional or semiprofessional matches or exhibitions.

(2) The board may issue licenses to qualified referees, managers, boxers, wrestlers, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, ~~commensurate with costs for that license,~~ as provided in 37-1-134, ~~as~~ set by the board."

Section 2. Section 23-4-105, MCA, is amended to read:

"23-4-105. Authority of board. The board shall~~, subject to 37-1-101 and 37-1-121,~~ license and regulate racing and review race meets held in this state under this chapter. All percentages withheld from amounts wagered must be deposited in the board's agency fund account. The board shall then distribute all funds collected under 23-4-202(4)(d), 23-4-204(3), and 23-4-302(3) to live race purses or for other purposes for the good of the existing horseracing industry. If the board decides to authorize new forms of racing, including new forms of

simulcast racing, not currently engaged in Montana, ~~it~~ the board shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board ~~should~~ shall consider both the economic and safety impacts on the existing racing and breeding industry."

Section 3. Section 23-4-201, MCA, is amended to read:

"23-4-201. Licenses. (1) ~~It is unlawful for a~~ A person ~~to~~ may not hold a race meet, including simulcast race meets under the parimutuel system, in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall file with the department an application ~~with the department which shall~~ that must set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet ~~shall~~ must be licensed and charged an annual fee set by the board~~, which shall~~ . The annual fee must be paid to the department and used for expenses of administering this chapter~~, subject to 37-1-101(6)~~. Each person holding a license under this chapter shall comply with this chapter and with the rules adopted and orders issued by the board.

(3) A license may not be issued to a person who has failed to pay the fees, taxes, or money required under this chapter.

(4) ~~Applications~~ An application to hold a race ~~meets shall~~ meet must be submitted to the department, and the board shall act on the ~~applications~~ application within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board and an independent racing association conducting a race ~~meets~~ meet comply with the requirements of the rules adopted by the board before granting a license.

(6) A racing association consisting of a local fair board or an association approved by a local fair board may apply for a license to hold a simulcast race meet in a simulcast facility.

(7) An unexpired license held by a person who violates this chapter or who fails to pay to the department the sums required under this chapter is subject to cancellation and revocation by the board."

Section 4. Section 27-12-206, MCA, is amended to read:

"27-12-206. Funding. (1) There is a pretrial review fund to be administered by the director for the purposes stated in this chapter. The fund and any income from it must be held in trust, deposited in an account, and invested and reinvested by the director. The fund may not become part of or revert to the general fund of this state but is subject to auditing by the legislative auditor. Money from the assessments levied under this section

must be deposited in the fund.

(2) For each fiscal year, beginning July 1, an annual assessment is levied on all chiropractic physicians. The amount of the assessment must be annually set by the director and equally assessed against all chiropractic physicians. A fund surplus at the end of a fiscal year that is not required for the administration of this chapter must be retained by the director and used to finance the administration of this chapter during the next fiscal year, in which event the director shall reduce the next annual assessment to an amount estimated to be necessary for the proper administration of this chapter during that fiscal year.

(3) The annual assessment must be paid on or before the date that the chiropractic physician's annual renewal fee under ~~37-12-307~~ 37-1-134 is due. An unpaid assessment bears a late charge fee of $25. The late charge fee is part of the annual assessment. The director has the same powers and duties in connection with the collection of and failure to pay the annual assessment as the department of labor and industry has under ~~37-12-307~~ 37-1-134 with regard to a chiropractic physician's annual license fee. However, nothing in this section may be interpreted to conflict with 37-1-138."

Section 5. Section 33-30-1013, MCA, is amended to read:

"33-30-1013. Coverage required for services provided by nurse specialists. A health service corporation shall provide, in group and individual insurance contracts, coverage for health services provided by a nurse specialist, as specifically listed in 37-8-202~~(5)~~, if health care services that nurse specialists are licensed to perform are covered by the contract."

Section 6. Section 37-1-101, MCA, is amended to read:

"37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department of labor and industry ~~may~~ shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, ~~taking~~ receiving and processing ROUTINE applications for licenses AS DEFINED BY A BOARD, issuing and ~~denying licenses granted by the boards,~~ renewing routine licenses as defined by a board, disciplining licensees, ~~registering,~~ setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing;

(2) standardize policies and procedures and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for ~~the~~ all meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board ~~or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination~~;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department;

(6) assess the costs of the department to the boards and programs on an equitable basis as determined by the department;

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's ~~licensing~~ board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(e);

(9) provide notice to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner;

(10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary; and

(11) establish policies and procedures to set fees for administrative services, as provided in 37-1-134, commensurate with the cost of the services provided. Late penalty fees may be set without being commensurate with the cost of services provided."

Section 7. Section 37-1-104, MCA, is amended to read:

"37-1-104. Standardized forms. ~~It is the responsibility of the~~ The department ~~whenever possible to~~ shall adopt standardized ~~application, license, and other~~ forms and processes to be used by the boards and department programs ~~within the department~~. The standardization is to streamline processes, expedite services, reduce costs~~,~~ and waste, and ~~the use of out-of-date forms and~~ facilitate ~~automated printing and~~ computerization."

Section 8. Section 37-1-105, MCA, is amended to read:

"37-1-105. Reporting disciplinary actions against licensees. The department has the authority and shall require that all ~~licensing~~ boards and department programs ~~within the department~~ require ~~all applicants~~ each applicant for licensure or renewal to report any legal or disciplinary ~~actions~~ action against ~~them~~ the applicant that ~~relate~~ relates to the propriety of the ~~applicants'~~ applicant's practice of or ~~their~~ fitness to practice the profession or occupation for which ~~they seek~~ the applicant seeks licensure. Failure to furnish the required information, except

pursuant to 37-1-138, or the filing of false information is grounds for denial or revocation of a license."

Section 9. Section 37-1-121, MCA, is amended to read:

"37-1-121. Duties of commissioner. In addition to the powers and duties under 2-15-112 and 2-15-121, the commissioner of labor and industry shall:

(1) at the request of a party, appoint an impartial hearings examiner to conduct hearings ~~before each board within the department~~ whenever any board or department program holds a contested case hearing. The hearings examiner shall conduct hearings in a proper and legal manner.

(2) establish the qualifications of and hire all personnel to perform the administrative, legal, and clerical functions of the department for the boards. Boards within the department do not have authority to establish the qualifications of, hire, or terminate personnel. The department ~~may~~ SHALL consult with the boards regarding recommendations for qualifications for ~~personnel~~ EXECUTIVE OR EXECUTIVE DIRECTOR POSITIONS.

(3) approve all contracts and expenditures by boards within the department. A board within the department may not enter into a contract or expend funds without the approval of the commissioner."

Section 10. Section 37-1-130, MCA, is amended to read:

"37-1-130. Definition. As used in this part, ~~"board" means each board in this title~~ the following definitions apply:

(1) "Administrative fee" means a fee established by the department to cover the cost of administrative services as provided for in 37-1-134.

(2) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is ~~allocated~~ administratively attached to the department ~~of labor and industry~~ as provided in 2-15-121.

(3) "Board fee" means:

(a) a fee established by the board to cover program area costs as provided in 37-1-134; and

(b) any other legislatively prescribed fees specific to boards and department programs.

(4) "Department" means the department of labor and industry established in 2-15-1701.

(5) "Department program" means a program administered by the department pursuant to this title and not affiliated with a board.

(6) "Expired license" means a license that is not reactivated within the period of 45 days to 2 years after the renewal date for the license.

(7) "Lapsed license" means a license that is not renewed by the renewal date and that may be reactivated within the first 45-day period after the renewal date for the license.

(8) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation.

(9) "Terminated license" means a license that is not renewed or reactivated within 2 years of the license lapsing."

Section 11. Section 37-1-131, MCA, is amended to read:

"37-1-131. Duties of boards -- quorum required. ~~Each~~ A quorum of each board within the department shall:

(1) set and enforce standards and rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within ~~its~~ the board's jurisdiction;

(2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within ~~its~~ the board's jurisdiction. The hearings must be conducted by a ~~hearing~~ hearings examiner when required under 37-1-121~~(1)~~.

(3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

(4) pay to the department ~~its~~ the board's pro rata share of the assessed costs of the department under 37-1-101(6);

(5) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available.

(6) A board, board panel, or subcommittee convened to conduct board business must have a majority of its members, which constitutes a quorum, present to conduct business.

(7) The board or the department program may:

(a) establish the qualifications of applicants to take the licensure examination;

(b) determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination;

(c) examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations; and

(d) require continuing education for licensure as provided in 37-1-306. If the board or department requires continuing education for continued licensure, the board or department may not audit or verify continuing education requirements as a precondition for renewing the license, certification, or registration. The board or department may conduct random audits of up to ~~20%~~ 50% of all licensees with renewed licenses for documentary verification of the continuing education requirement after the renewal period closes.

(8) A board may, at the board's discretion, request the applicant to make a personal appearance before the board for nonroutine license applications as defined by the board."

Section 12. Section 37-1-134, MCA, is amended to read:

"37-1-134. ~~Licensing boards to establish fees~~ Fees commensurate with costs. ~~All~~ Each ~~licensing boards~~ board allocated to the department shall set board fees ~~reasonably~~ related to the respective program area that are commensurate with costs for licensing, including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits. A board may set an examination fee that must be commensurate with costs. A board that issues endorsements and licenses specialties shall set respective fees commensurate with costs. Unless otherwise provided by law, ~~each board within~~ the department may establish standardized fees, including but not limited to fees for ~~program areas such as application, examination, renewal, reciprocity, late renewal, and continuing education~~ administrative services such as license verification, duplicate licenses, late penalty renewals, licensee lists, and other administrative service fees determined by the department as applicable to all boards and department programs. The department shall collect administrative fees on behalf of each board or department program and deposit the fees in the state special revenue fund in the appropriate account for each board or department program. ~~Board~~ Administrative service costs not related to a specific board or program area may be equitably distributed to board or program areas as determined by the ~~board~~ department. Each board and department program shall maintain records sufficient to support the fees charged for each program area."

Section 13. Section 37-1-141, MCA, is amended to read:

"37-1-141. ~~Nonrenewal of license for three years~~ License renewal -- lapse -- expiration -- termination. (1) The renewal date for a license must be set by department rule. The department shall provide notice prior to the renewal date.

(2) To renew a license, a licensee shall submit a completed renewal form, comply with all certification

and continuing education requirements, and remit renewal fees before the end of the renewal period.

(3) A licensee may reactivate a lapsed license within 45 days after the renewal date by following the process in subsection (5) and complying with all certification and educational requirements.

(4) A licensee may reactivate an expired license within 2 years after the renewal date by following the process in subsection (5) and complying with all certification and education requirements that have accrued since the license was last granted or renewed as prescribed by board or department rule.

(5) To reactivate a lapsed license or an expired license, in addition to the respective requirements in subsections (3) and (4), a licensee shall:

(a) submit the completed renewal form;

(b) pay the late penalty fee provided for in subsection (7); and

(c) pay the current renewal fee as prescribed by the department or the board.

(6) (a) A licensee who practices with a lapsed license is not considered to be practicing without a license.

(b) A licensee who practices after a license has expired is considered to be practicing without a license.

(7) The department may assess a late penalty fee for each renewal period in which a license is not renewed. The late penalty fee need not be commensurate with the costs of assessing the fee.

(8) Unless otherwise provided by statute or rule, ~~a lapsed~~ an occupational or professional license that is not renewed within ~~3~~ 2 years of the most recent renewal date automatically terminates. The terminated license may not be ~~reinstated~~ reactivated, and a new original license must be obtained ~~by passing a qualifying examination and paying the appropriate fee~~.

(9) The department or board responsible for licensing a licensee retains jurisdiction for disciplinary purposes over the licensee for a period of 2 years after the date on which the license lapsed.

(10) This section may not be interpreted to conflict with 37-1-138."

Section 14. Section 37-1-302, MCA, is amended to read:

"37-1-302. Definitions. As used in this part, the following definitions apply:

(1) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.

(2) "Complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(3) "Department" means the department of labor and industry.

(4) "Inspection" means the periodic examination of premises, equipment, or procedures or of a

practitioner by the department to determine whether the practitioner's profession or occupation is being conducted in a manner consistent with the public health, safety, and welfare.

(5) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a written complaint or other information before a board, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the board;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether a board should seek an injunction.

(6) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation~~, regardless of the specific term, such as permit, certificate, recognition, or registration, used for the permission~~.

(7) "Profession" or "occupation" means a profession or occupation regulated by a board."

Section 15. Section 37-1-306, MCA, is amended to read:

"37-1-306. Continuing education. A board or, for programs without a board, the department may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education."

Section 16. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board authority. (1) A board may:

(a) hold hearings as provided in this part;

(b) issue subpoenas requiring the attendance of witnesses or the production of documents and administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must be relevant to the complaint~~, issued by a majority vote of board members not serving on the screening panel described in subsection (1)(c),~~ and must be signed by ~~the presiding officer~~ a member of the board. Subpoenas may be enforced as provided in 2-4-104.

(c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under this part;

~~(d) compel attendance of witnesses and the production of documents. Subpoenas may be enforced as provided in 2-4-104.~~

~~(e)~~(d) establish a screening panel ~~that determines~~ to determine whether there is reasonable cause to believe that a licensee has violated a particular statute, rule, or standard justifying disciplinary proceedings. A screening panel shall specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.

~~(f)~~(e) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding ~~its~~ the board's licensees and license applicants and regarding possible unlicensed practice.

[(3) Each board shall require a license applicant to provide the applicant's social security number as a part of the application. Each board shall keep the social security number from this source confidential, except that a board may provide the number to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 17. Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which the medical practitioner maintains an office for professional practice.

(2) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans;

(b) to affect the structure or any function of the body of humans.

(3) "Drug" has the same meaning as provided in 37-7-101.

(4) "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs~~; but the~~. The term does not include a pharmacy.

(5) "Medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, podiatry, optometry, or a nursing specialty as described in 37-8-202~~(5)~~ and in the licensed practice to administer or prescribe drugs.

(6) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.

(7) "Pharmacy" has the same meaning as provided in 37-7-101.

(8) "State" means the state of Montana or any political subdivision of the state."

Section 18. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. The board may:

(1) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair, impartial, and nondiscriminatory.

(2) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(3) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter;

(4) establish a program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental or chronic physical illness;

~~(5) select an executive secretary to be hired by the department to:~~

~~(a) provide services to the board in connection with the board's duties under this chapter;~~

~~(b) assist in prosecution and matters of license discipline under this chapter; and~~

~~(c) administer the board's affairs;~~ and

~~(6)~~(5) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary."

Section 19. Section 37-3-211, MCA, is amended to read:

"37-3-211. Executive secretary. To perform ~~the~~ services ~~provided for in 37-3-203(5)~~ to the board in connection with the board's duties under this chapter, assist in prosecution and matters of license discipline, and administer the board's affairs, the department shall hire an executive secretary ~~selected by the board~~."

Section 20. Section 37-3-301, MCA, is amended to read:

"37-3-301. License required -- kinds of certificates. (1) Before being issued a license, an applicant

may not engage in the practice of medicine in this state.

(2) The department may issue four forms of certificates of licensure under the board's seal~~:~~, which include the physician's certificate, the restricted certificate, the temporary certificate, and the telemedicine certificate issued in accordance with 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349. The physician's certificate and the restricted certificate must be signed by the president, but the temporary certificate may be signed by any board member. The board shall decide which certificate to issue. These certificates must be designated as:

(a) a physician's certificate, which is subject to renewable registration in accordance with department rules;

(b) a restricted certificate;

(c) a temporary certificate, which is subject to specifications and limitations imposed by the board; and

(d) a telemedicine certificate."

Section 21. Section 37-3-305, MCA, is amended to read:

"37-3-305. Qualifications for licensure. (1) Except as provided in subsections (4) and (5), a person may not be granted a physician's license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program;

(d) has ~~had~~ submitted a completed application ~~file reviewed by a board member and, at the discretion of the board member, has made a personal appearance before the board~~; and

(e) is able to communicate, in the opinion of the board, in the English language.

(2) The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified.

(3) A person may not be granted a temporary license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program; and

(d) is able, in the opinion of the board, to communicate in the English language.

(4) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or in the opinion of the board has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with the Montana family practice residency program; and

(c) is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state.

(5) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with a program accredited by the accreditation council for graduate medical education or the American osteopathic association;

(c) in the course of an approved rotation of the person's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state;

(d) makes application to the department on ~~a~~ an approved form ~~prescribed by the board~~; and

(e) pays a fee set by the board, as provided in 37-3-308."

Section 22. Section 37-3-306, MCA, is amended to read:

"37-3-306. Physician's certificate -- examination -- reciprocity and endorsement. (1) The board may authorize the department to issue to an applicant a physician's certificate, certificate by reciprocity, or certificate by endorsement only on the basis of:

(a) passing an approved examination ~~given and graded by the department~~, subject to 37-1-101;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of examiners for osteopathic physicians and surgeons, incorporated, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by this board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was

issued were, in the judgment of the board, essentially equivalent to those of this state for granting a license to practice medicine, if under the scope of the license or certificate the applicant was authorized to practice medicine in the other state, territory, or country.

(2) ~~No~~ An applicant who applies for a license on the basis of an examination and fails the examination may not be granted a license based on credentials from another state, territory, or foreign country or on a certificate issued by the national board of medical examiners or successors, by the federation licensing examination committee or successors, or by the medical council of Canada or successors.

(3) The board may adopt reciprocity or endorsement requirements current with changes in standards in the practice of medicine.

(4) The board may, in the case of an applicant for admission by reciprocity or endorsement, require a written or oral examination of the applicant.

(5) The board may require that graduates of foreign medical schools pass an examination given by the education council for foreign medical graduates or successors.

(6) Holders of the degree of doctor of osteopathy granted in 1955 or before ~~will~~ may be certified only on the basis of taking and passing the examination given by the department, subject to 37-1-101. Holders of the degree of doctor of osteopathy granted after 1955 ~~will~~ must be certified in the same manner as provided ~~above~~ in this section for physicians."

Section 23. Section 37-3-307, MCA, is amended to read:

"37-3-307. Qualifications for licensure -- temporary certificate. (1) The board may authorize the department to issue to an applicant a temporary certificate to practice medicine on the basis of:

(a) passing an examination ~~given and graded by the department, subject to 37-1-101~~ prescribed by the board;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of osteopathic medical examiners or successors, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by the board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the

District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were essentially equivalent, in the judgment of the board, to those of this state at the time for granting a license to practice medicine; and

(d) being a graduate of an approved medical school who has completed 1 year of internship or ~~its~~ the equivalent and being of good moral character and good conduct.

(2) The board may require that graduates of foreign medical schools pass the examination given by the education council for foreign medical graduates or successors.

(3) A temporary certificate may be issued to a physician employed by a public institution who is practicing under the direction of a licensed physician. The board may authorize the department to issue a temporary certificate subject to terms of probation or other conditions or limitations set by the board or may refuse a temporary certificate to a person who has committed unprofessional conduct. The issuance of a temporary certificate does not impose any future obligation or duty on the part of the board to grant full licensure or to renew or extend the temporary certificate. The board may, in the case of an applicant for a temporary certificate, require a written, oral, or practical examination of the applicant."

Section 24. Section 37-3-309, MCA, is amended to read:

"37-3-309. Application for license. ~~(1)~~ A person desiring a license to practice medicine shall ~~make application~~ apply to the department~~, verified by oath and in a form prescribed by the board~~ on an approved form. The application must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by this chapter apart from an examination required by the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the qualifications and whether the applicant has committed unprofessional conduct. The applicant shall provide necessary authorizations for the release of records and information pertinent to the department's inquiry.

~~(2) An applicant for a license on the basis of an examination shall file the application at least 60 days prior to the announced date of the examination. If the applicant is not at the time of filing the application a graduate of but is then in attendance at an approved medical school, the applicant shall submit to the department, instead of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of the approved medical school that the applicant will receive a diploma at the end of the then-current school term. The applicant may not be granted a certificate until the applicant has filed with the department a diploma or other acceptable evidence of graduation from the approved medical school and has~~

~~complied with the requirements of subsection (1). A license may not be issued until the applicant has satisfied the board that the applicant has completed at least 1 year of an approved internship or its equivalent and has otherwise met the requirements for the issuance of a license under this chapter.~~"

Section 25. Section 37-3-311, MCA, is amended to read:

"37-3-311. Examination. ~~(1) Examinations for a license to practice medicine shall be held not less than twice each year, at a time and place specified by the board. The examination shall be conducted in the English language and shall be sufficiently comprehensive in medicine to adequately test the applicant's professional competence and ability. The examination shall be fair and impartial. Examination papers shall be identified by both the name of the applicant and a number assigned by the department. The board may require the department to use the examination prepared by the national board of medical examiners or the examination prepared by the federation licensing examination committee or successors.~~

~~(2) An applicant must meet the requirements of 37-3-305 prior to taking a scheduled examination.~~

~~(3)~~(1) An applicant who is a graduate of a foreign medical school ~~shall~~ is required to have passed an examination given by the education council for foreign medical graduates or its successor.

~~(4)~~(2) The board may in its discretion require the department to give, subject to 37-1-101, an oral or practical examination to test the applicant's qualifications for licensure and grant appropriate credit for ~~this~~ the examination.

~~(5)~~(3) The board may use other Montana physicians to assist in preparing the examination.

~~(6)~~(4) A person may not be granted a license to practice medicine if ~~he~~ the person fails to attain a passing grade as set by the board. If an applicant fails to meet the minimum grade requirements ~~in his~~ on the first examination, ~~he~~ the applicant may be reexamined not more than two additional times on each of the component parts of the examination. ~~An examination fee shall be charged for each additional examination.~~ If an applicant is prevented through no fault of ~~his own~~ the applicant's from taking a scheduled examination, ~~he~~ the applicant may, within 2 years, be examined without submitting a new application."

Section 26. Section 37-3-313, MCA, is amended to read:

"37-3-313. ~~Renewal fees -- failure to pay -- limiting~~ Limiting authority to impose renewal fees. ~~(1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine in this state shall pay to the department a renewal fee as prescribed by the board.~~

~~(2) The payments for renewal must be made prior to the expiration date of the license, as set forth in a~~

~~department rule. The department shall mail renewal notices before the renewal is due.~~

~~(3) Except as provided in 37-1-138, in case of default in the payment of the renewal fee by a person licensed to practice medicine who is actively practicing medicine in this state, the underlying license to practice medicine may be considered lapsed by the board.~~

~~(4)~~ A license or renewal fee may not be imposed on a licensee under this chapter by a municipality or any other subdivision of the state."

Section 27. Section 37-3-341, MCA, is amended to read:

"37-3-341. Legislative findings. The Montana legislature previously found, in 37-3-101, that the practice of medicine in Montana is a privilege, not a natural right, and that the regulation of the practice of medicine is necessary to ensure the health, happiness, safety, and welfare of the people of Montana. The legislature now finds that because of technological advances and changing patterns of medical practice, medicine is increasingly being practiced by electronic means across state lines. Although access to technological advances is in the public interest, the legislature also finds that regulation of the practice of medicine across state lines is necessary to protect the public against the unprofessional, improper, unauthorized, and unqualified practice of medicine. Accordingly, the legislature finds that physicians outside the boundaries of Montana who ~~enter the state~~ by electronic or other technological means ~~to~~ practice medicine for compensation on patients inside Montana are seeking the benefit and protection of the laws of Montana and are subject to the licensure and regulatory requirements provided in 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349."

Section 28. Section 37-3-342, MCA, is amended to read:

"37-3-342. Definition -- scope of practice allowed by telemedicine certificate. (1) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, "telemedicine" means the practice of medicine, as defined in 37-3-102, by a physician located outside the state who performs an evaluative or therapeutic act relating to the treatment or correction of a patient's physical or mental condition, ailment, disease, injury, or infirmity and who transmits that evaluative or therapeutic act into Montana through any means, method, device, or instrumentality under the following conditions:

(a) The information or opinion is provided for compensation or with the expectation of compensation.

(b) The physician does not limit the physician's services to an occasional case.

(c) The physician has an established or regularly used connection with the state, including but not limited to:

(i) an office or another place for the reception of a transmission from the physician;

(ii) a contractual relationship with a person or entity in Montana related to the physician's practice of medicine; or

(iii) privileges in a Montana hospital or another Montana health care facility, as defined in 50-5-101.

(2) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, telemedicine does not mean:

(a) an act or practice that is exempt from licensure under 37-3-103;

(b) an informal consultation, made without compensation or expectation of compensation, between an out-of-state physician and a physician or other health care provider located in Montana;

(c) the transfer of patient records, independent of any other medical service and without compensation;

(d) communication about a Montana patient with the patient's physician or other health care provider who practices in Montana, in lieu of direct communication with the Montana patient or the patient's legal representative;

(e) diagnosis of a medical condition by a physician located outside the state, based upon an x-ray, cardiogram, pap smear, or other specimen sent for evaluation to the physician outside the state by a health care provider in Montana; or

(f) a communication from a physician located outside Montana to a patient in Montana in collaboration with a physician or other health care provider licensed to practice medicine in Montana."

Section 29. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without certificate -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine certificate issued pursuant to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine certificate authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine certificate pursuant to 37-3-345(2).

(3) A telemedicine certificate authorizes an out-of-state physician to practice only telemedicine. A telemedicine certificate does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A physician who practices telemedicine in this state without a telemedicine certificate issued pursuant

to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that certificate, in violation of the scope of practice allowed by the certificate, or without a physician's certificate of licensure issued pursuant to 37-3-301(2)(a), is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 30. Section 37-3-344, MCA, is amended to read:

"37-3-344. Application for telemedicine certificate. (1) A person desiring a telemedicine certificate shall apply to the department and verify the application by oath, in a form prescribed by the board.

(2) The application must be accompanied by:

(a) a certificate fee prescribed by board rule; and

(b) documents required by the board that establish that the applicant possesses the qualifications prescribed by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the requisite qualifications.

(3) The application must include a clear statement that the applicant consents to the jurisdiction of the state as specified in 37-3-349.

(4) The applicant shall provide to the board authorizations necessary for the release of records and other information required by the board."

Section 31. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of certificate -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine certificate if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a certificate required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) fails to pay a required fee;

(c) does not possess the qualifications or character required by this chapter; or

(d) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine certificate provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 32. Section 37-4-301, MCA, is amended to read:

"37-4-301. ~~Examination -- qualifications~~ Qualifications -- fees ~~-- certification~~. ~~(1) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. It may also include, at the board's discretion, an oral interview with the board, which may include questions pertaining to the practice of dentistry. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence to be administered at times and places approved by the board. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(2) Acceptance by the board of a written and practical examination must be conditioned on evidence that the examination is sufficiently thorough to test the fitness of the applicant to practice dentistry. The examination must include, written in the English language, questions on anatomy, histology, physiology, chemistry, pharmacology and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, orthodontics, periodontics and endodontics, and any additional subjects pertaining to dental service.~~

~~(3) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(4)~~ Applicants for licensure shall submit an application~~, which~~ that must include, when required:

~~(a)~~(1) certification of successful completion of the national board ~~written~~ examination;

~~(b)~~(2) certification of successful completion of a regional board ~~practical~~ examination;

~~(c)~~(3) three affidavits of good moral character;

~~(d)~~(4) a certificate of graduation from a board-approved dental school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(5) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(5) Applicants may not take the jurisprudence examination or the oral interview without first having completed and passed all other parts of the examination.~~

~~(6) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination upon payment of a fee commensurate with costs and set by the board.~~

~~(7) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 33. Section 37-4-307, MCA, is amended to read:

"37-4-307. ~~Renewal fee -- default~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dentist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal fees must be given to each dentist registered in this state by the department.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required by the department if the renewal fee is not paid in a timely manner.~~

~~(3) (a) Except as provided in 37-1-138, in case of default in payment of the renewal fee by a licensee, the license must be forfeited by the licensee. The board shall give the licensee 30 days' notice of its proposed forfeiture action. The notice must be sent by certified letter addressed to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the time set for forfeiture, the license may not be forfeited.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each renewal period that they were unpaid, plus a late penalty fee for each renewal period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dentist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dentist licensed under this chapter."

Section 34. Section 37-4-402, MCA, is amended to read:

"37-4-402. License -- examination. (1) The department may issue licenses for the practice of dental

hygiene to qualified applicants to be known as dental hygienists.

(2) Except as provided by rules adopted under 37-1-319, a person may not engage in the practice of dental hygiene or practice as a dental hygienist in this state until the person has passed an examination approved by the board under rules ~~it considers proper~~ adopted by the board and has been issued a license by the department.

~~(3) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(4) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(5)~~(3) ~~Applicants~~ An applicant for licensure shall submit an application~~, which~~ that must include, when required:

(a) certification of successful completion of the national board ~~written~~ examination;

(b) certification of successful completion of a regional board ~~practical~~ examination;

(c) two affidavits of good moral character;

(d) a certificate of graduation from a board-approved dental hygiene school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(e) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(6) Applicants may not take the jurisprudence examination without first having completed and passed all other parts of the examination.~~

~~(7) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination on payment of a fee commensurate with costs and set by the board.~~

~~(8) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 35. Section 37-4-406, MCA, is amended to read:

"37-4-406. ~~Renewal fee -- default -- forfeiture of license~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dental hygienist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required if the renewal fee is not paid in a timely manner.~~

~~(3) Except as provided in 37-1-138, in case of default in payment of the renewal fee by any licensee, the licensee shall forfeit the license.~~

~~(a) The board shall give the licensee 30 days' notice of its proposed forfeiture action. The notice must be sent by certified mail to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) The payment of the renewal fee on or before the time set for forfeiture, with a reasonable late fee set by the board, excuses the default.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each period that they were unpaid, plus a late penalty for each period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dental hygiene since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dental hygienist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5) The board may, after a hearing, revoke or suspend the license of a dental hygienist for violating this chapter.~~

~~(6)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dental hygienist licensed under this chapter."

Section 36. Section 37-6-304, MCA, is amended to read:

"37-6-304. Designations on license -- recording ~~-- renewal -- display~~. (1) A license issued under this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

(2) ~~Licenses must be recorded by the~~ The department shall record licenses the same as other medical licenses.

~~(3) Licenses must be renewed on a date set by department rule.~~

~~(4) A license renewal fee set by the board must be paid on a date set by department rule.~~

~~(5) The department shall mail renewal notices prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~"

SECTION 37. SECTION 37-7-104, MCA, IS AMENDED TO READ:

"37-7-104. Qualifications of employee hired to assist board. A person hired by the department to enter and inspect an establishment under this chapter~~; to examine the books of a manufacturer, druggist, storekeeper, wholesaler, pharmacist, or intern; to assist in a prosecution under this chapter; and to assist the board in supervising internships, reciprocity agreements, professional correspondence, and examinations shall~~ must be:

(1) a citizen of the United States and a resident of this state; and

(2) a pharmacist registered under this chapter~~, with at least 5 years of practical experience~~."

Section 38. Section 37-7-302, MCA, is amended to read:

"37-7-302. ~~Examination -- qualifications -- fees -- reciprocity~~ Qualifications -- display of license. ~~(1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.~~

~~(2) The fee for an examination must be set by the board at a figure commensurate with costs. The fee may in the discretion of the board be returned to applicants not taking the examination.~~

~~(3)~~(1) To be entitled to examination as a pharmacist, the applicant must be of good moral character and must have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana-Missoula or ~~from~~ have received an accredited pharmacy degree ~~program~~ that has been approved by the board. However, an applicant may not receive a registered pharmacist's license until the applicant has complied with the internship requirements established by the board.

~~(4)~~(2) Each person licensed and registered under this chapter must receive from the department an appropriate ~~certificate~~ license ~~attesting the fact, which~~. The license must be conspicuously displayed at all times

in the place of business."

Section 39. Section 37-7-321, MCA, is amended to read:

"37-7-321. Certified pharmacy license -- display. ~~(1)~~ The board shall provide for the original certification and renewal by the board of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board, ~~and~~ on application on a prescribed form ~~prescribed by the board~~, and on the payment of an original certification fee prescribed by the board, the board shall issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to pharmacies operated by registered pharmacists qualified under this chapter. ~~The renewal fee for a pharmacy must be set by the board. Any default in the payment of the renewal fee after the date the fee is due increases the renewal fee as prescribed by the board.~~ The license must be displayed in a conspicuous place in the pharmacy for which it is issued ~~and expires on the date set by board rule~~. ~~It is unlawful for a~~ A person ~~to~~ may not ~~conduct~~ operate a pharmacy, use the word "pharmacy" to identify the business, or use the word "pharmacy" in advertising unless a license has been issued and is in effect.

~~(2) The board may impose discipline or deny or refuse to renew a pharmacy license for reasons specified in and subject to conditions specified in Title 37, chapter 1.~~"

Section 40. Section 37-7-605, MCA, is amended to read:

"37-7-605. Out-of-state wholesale drug distributor licensing requirements. (1) ~~It is unlawful for an~~ An out-of-state wholesale drug distributor ~~to~~ may not conduct business in this state without first obtaining a license from the board and paying the license fee established by the board.

(2) Application for a license under this section must be made on ~~a~~ an approved form ~~furnished by the board~~.

(3) The issuance of a license may not affect tax liability imposed by the department of revenue on any out-of-state wholesale drug distributor.

(4) A person acting as principal or agent for an out-of-state wholesale drug distributor may not sell or distribute drugs in this state unless the distributor has obtained a license."

Section 41. Section 37-7-606, MCA, is amended to read:

"37-7-606. ~~Issuance of licenses~~ Licenses. The license for wholesale drug distributors is effective during the period specified by department rule. ~~An application for renewal of a license must be mailed to each~~

~~licensee at least 30 days prior to the renewal date, and if the renewal application and the fee are not mailed by the renewal date, the license is void upon its expiration date.~~"

Section 42. Section 37-8-102, MCA, is amended to read:

"37-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202~~(5)(a)~~.

(2) "Board" means the board of nursing provided for in 2-15-1734.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Medication aide" means a person who in an assisted living facility uses standardized procedures in the administration of drugs, as defined in 37-7-101, ~~in an assisted living facility~~ that are prescribed by a physician, an advanced practice registered nurse with prescriptive authority, a dentist, an osteopath, or a podiatrist authorized by state law to prescribe drugs.

(5) "Nursing education program" means any board-approved school that prepares graduates for initial licensure under this chapter. Nursing education programs for:

(a) professional nursing may be a department, school, division, or other administrative unit in a junior college, college, or university;

(b) practical nursing may be a department, school, division, or other administrative unit in a vocational-technical institution or junior college.

(6) "Practice of nursing" embraces the practice of practical nursing and the practice of professional nursing.

(7) (a) "Practice of practical nursing" means the performance of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. ~~Practical~~ The practice of practical nursing ~~practice~~ uses standardized procedures in the observation and care of the ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the administration of medications and treatments prescribed by a physician, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

(b) These services may include a charge-nurse capacity in a long-term care facility that provides skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a registered nurse.

(8) "Practice of professional nursing" means the performance of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention, casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (8):

(a) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;

(b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

Section 43. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties. (1) The board shall:

(a) meet annually and ~~shall~~ elect from among the ~~nine~~ members a president and a secretary~~. The board shall~~;

(b) hold other meetings when necessary to transact its business~~. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board.~~

~~(2) The board may make rules necessary to administer this chapter. The board shall~~;

(c) prescribe standards for schools preparing persons for registration and licensure under this chapter~~. It shall~~;

(d) provide for surveys of schools at times ~~it~~ the board considers necessary~~. It shall~~;

(e) approve programs that meet the requirements of this chapter and of the board~~. The department shall, subject to 37-1-101, examine and issue to and renew licenses of qualified applicants. The board shall~~;

(f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or

removal of schools of nursing from the approved list~~. It shall~~;

(g) cause the prosecution of persons violating this chapter ~~and~~. The board may incur necessary expenses for prosecutions.

~~(3) The board may adopt and the department shall publish forms for use by applicants and others, including license, certificate, and identity forms and other appropriate forms and publications convenient for the proper administration of this chapter. The board may fix reasonable fees for incidental services, within the subject matter delegated by this chapter.~~

(h) adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.

(i) establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide for assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

~~(4)~~(2) The board may:

(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses~~.~~;

~~(5) (a) The board may~~

(b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or ~~its~~ the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

~~(b) The board shall adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.~~

~~(6) The board may~~

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational

qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

~~(7) The board shall establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the license fee provided for in 37-8-431 commensurate with the cost of the program.~~

~~(8) The board may~~

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons~~.~~;

(e) adopt rules necessary to administer this chapter; and

~~(9)~~ (f) ~~The board may~~ fund additional staff, hired by the department, to administer the provisions of this chapter."

Section 44. Section 37-9-304, MCA, is amended to read:

"37-9-304. Fees. (1) Each person who applies for licensure~~, whether by waiver, examination, or reciprocation,~~ shall pay a fee prescribed by the board at the time of application.

(2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed by the board. ~~A license expires on a date set by department rule and must be renewed upon timely payment of the license fee.~~

~~(3) The fee for issuing a duplicate license must be fixed by the board.~~"

Section 45. Section 37-9-305, MCA, is amended to read:

"37-9-305. ~~Renewal of registration and license~~ License -- grounds for discipline. ~~Each holder of a nursing home administrator's registration and license shall renew it by payment of the required fee for the next subsequent period prior to the expiration date of the currently valid registration and license, except as may be otherwise provided in 37-1-138. Renewals of registrations or licenses~~ A license must be granted as a matter of course. However, if the board finds, after notice and hearing, that the applicant has acted or failed to act in ~~a~~ ~~manner or under circumstances that would constitute grounds for discipline, it may not issue the renewal~~ accordance with this chapter, the board may find grounds for discipline."

Section 46. Section 37-10-302, MCA, is amended to read:

"37-10-302. ~~Examination -- qualifications~~ Qualifications -- application ~~-- issuance of certificate~~. (1) The board shall adopt rules relative to and governing the qualifications of applicants for certificates of registration as optometrists. ~~If the applicant does not meet the requirements of the rules, the applicant is not eligible to take an examination to practice optometry in this state. If the applicant meets the requirements of the rules, the applicant must pass an examination given by the national board of examiners in optometry on behalf of the department, subject to 37-1-101. Examinations must be practical in character and designed to ascertain the applicant's fitness to practice the profession of optometry and must be conducted in the English language. The department shall publish and distribute the examination requirements for a certificate to practice optometry in this state. The board may accept the grades an applicant has received in the written examinations given by the national board of examiners in optometry.~~

(2) A person is not eligible to receive a certificate of registration unless that person is 18 years of age or older and of good moral character.

(3) A person is not eligible to receive a certificate of registration unless that person has certificates of graduation from an accredited high school and from a school of optometry in which the practice and science of optometry is taught in a course of study covering 8 semesters or 4 years of actual attendance and that is accredited by the international association of boards of examiners in optometry.

(4) A person desiring a certificate of registration shall file ~~an~~ a completed application~~, in the manner prescribed by the board,~~ on a form provided by the department and pay a fee prescribed by the board.

~~(5) A person who successfully passes the examination administered by the national board of examiners in optometry and who has met the requirements for qualification as an optometrist must be registered in a register kept by the department and, on the payment of a fee prescribed by the board, must receive a certificate of registration signed by the members of the board.~~"

Section 47. Section 37-10-304, MCA, is amended to read:

"37-10-304. Course in use of diagnostic and therapeutic drugs required. (1) (a) In addition to the requirements of 37-10-302, each person desiring to commence the practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners with consultation and approval by the board of optometrists with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions.

(b) A person presently licensed to practice optometry who wishes to employ diagnostic agents ~~must~~ shall satisfactorily complete a course referred to in subsection (1)(a) and ~~must~~ shall pass an examination ~~as provided~~

~~in subsection (1)(d)~~.

(c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course must also be approved by the board.~~

~~(d) The board shall provide for an examination in competency in the use of diagnostic drugs and shall issue a certificate to those applicants who pass the examination.~~

(2) (a) Each person desiring to ~~commence the~~ practice ~~of~~ optometry shall:

(i) pass an examination, of the ~~international~~ association of regulatory boards ~~of examiners in~~ of optometry, on the diagnosis, treatment, and management of ocular disease; or

(ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular diseases. The course and examination must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course and examination must also be approved by the board.~~

(b) A person presently licensed to practice optometry who wishes to employ therapeutic pharmaceutical agents must meet the requirements of subsection (2)(a).

~~(c) The board shall:~~

~~(i) provide for an examination in competency in the diagnosis, treatment, and management of therapeutic pharmaceutical agents; and~~

~~(ii) issue a certificate to an applicant who passes the examination.~~"

Section 48. Section 37-11-201, MCA, is amended to read:

"37-11-201. General powers -- rulemaking ~~power -- records~~. ~~(1)~~ The board may:

~~(a)~~(1) adopt rules to ~~carry~~ implement this chapter ~~into effect~~;

~~(b) grant, suspend, and revoke licenses;~~

~~(c)~~(2) issue subpoenas requiring the attendance of witnesses or the production of books and papers; and

~~(d)~~(3) take any other disciplinary action necessary to protect the public.

~~(2) The board shall:~~

~~(a) examine applicants for licenses at reasonable places and times determined by the board;~~

~~(b) review the qualifications of applicants who are approved for examination for licensure;~~

~~(c) conduct written or computerized examinations that measure the qualifications of individual applicants along with any oral or practical examinations when determined by the board to be appropriate; and~~

~~(d) adopt rules to establish continuing education requirements of at least 20 hours biennially for license renewal for physical therapists and assistants, subject to the provisions of 37-1-138.~~

~~(3) The department shall keep a record of the board's proceedings under this chapter and a register of persons licensed under it. The register must show the name of every licensed physical therapist and licensed assistant, the therapist's or assistant's last-known place of business and last-known place of residence, and the date of issue and the number of every license and certificate issued to a licensed physical therapist or licensed assistant.~~

~~(4) The department shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every person licensed to practice medicine and surgery in the state. An interested person in the state is entitled to obtain a copy of the list on application to the department and payment of an amount not in excess of the cost of the list.~~

~~(5) The department may change addresses and surnames on the licensee's records only on the specific written request by the individual licensee.~~"

Section 49. Section 37-11-304, MCA, is amended to read:

"37-11-304. Application for examination ~~-- fee~~. ~~(1)~~ A person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to the department ~~in writing,~~ on a form furnished by the department. The person shall~~:~~

~~(a)~~ provide evidence ~~under oath~~, satisfactory to the board, of having the qualifications preliminary to the examination required by 37-11-303~~; and~~

~~(b) pay to the department at the time of filing the application a fee established by the board by rule. The fee must be commensurate with the cost of the examination and its administration and must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).~~

~~(2) Anyone failing to pass the required examination on the first attempt is entitled to take a second examination and, if the second examination is failed, to take a third examination. A person who fails the third examination is required to successfully complete additional education as required by the board before retaking the examination~~."

Section 50. Section 37-12-201, MCA, is amended to read:

"37-12-201. Organization of board ~~-- meetings~~ -- powers and duties. ~~(1)~~ The board shall:

(1) elect annually a president, vice president, and secretary-treasurer from its membership~~.~~;

~~(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates.~~

~~(3) The board shall:~~

~~(a)~~(2) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

~~(b) adopt a seal that must be affixed to licenses issued;~~

~~(c)~~(3) make a schedule of minimum educational requirements~~, which~~ that are without prejudice, partiality, or discrimination~~,~~ as to the different schools of chiropractic;

~~(d)~~(4) adopt rules necessary for the implementation, administration, continuation, and enforcement of this chapter. The rules must address but are not limited to license applications, ~~form and~~ the display of ~~license~~ licenses, ~~license examination format, criteria for and grading of examinations, disciplinary standards for licensees,~~ and the registration of interns and preceptors.

~~(e)~~(5) make determinations of the qualifications of applicants under this chapter; and

~~(f) administer the examination for licensure under this chapter;~~

~~(g) establish and collect fees, fines, and charges as provided in this chapter;~~

~~(h) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and~~

~~(i)~~(6) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified evaluator for purposes of 39-71-711.

~~(4) The department shall keep a record of the proceedings of the board, which must at all times be open to public inspection.~~"

Section 51. Section 37-12-302, MCA, is amended to read:

"37-12-302. Applications -- qualifications -- fees. (1) A person wishing to practice chiropractic in this state shall ~~make application~~ apply to the department~~,~~ on ~~the~~ a department form ~~and in the manner prescribed by the board~~. Each applicant must be a graduate of ~~or expect to graduate within 90 days prior to the next licensing examination administered by the board from~~ a college of chiropractic approved by the board~~, in which the applicant has attended a course of study of 4 school years of not less than 9 months each~~. The applicant shall present evidence showing proof of a bachelor's degree from an accredited college or university. ~~Application must~~

~~be made in writing, must be sworn to by an officer authorized to administer oaths, and must recite the history of applicant's educational qualifications, how long the applicant has studied chiropractic, of what school or college the applicant is a graduate, and the length of time the applicant has been engaged in practice.~~ The application must be accompanied with copies of diplomas and certificates and satisfactory evidence of good character and reputation.

(2) The applicant shall pay to the department a license fee prescribed by the board. ~~A fee must also be paid for a subsequent examination and application.~~

(3) A person who is licensed in another state or who previously graduated from or was enrolled in a chiropractic college accredited by the council on chiropractic education on or before October 1, 1995, is exempt from the bachelor's degree requirement."

Section 52. Section 37-13-302, MCA, is amended to read:

"37-13-302. Application for licensure -- fee -- qualifications. (1) Each person desiring to practice acupuncture in this state shall ~~make application~~ apply to the board for licensure ~~with the secretary of the board, upon the forms and in the manner prescribed by the board~~. A fee prescribed by the board ~~shall~~ must accompany the application.

(2) ~~A person making application~~ An applicant shall furnish to the board evidence that ~~he~~ the applicant is:

(a) at least 18 years of age;

(b) of good moral character~~,~~ as determined by the board;

(c) a graduate of ~~an approved~~ a school of acupuncture that is approved by the national accreditation commission for schools and colleges of acupuncture and oriental medicine and offers a course of at least 1,000 hours of entry-level training in recognized branches of acupuncture or an equivalent curriculum approved by the board; and

(d) has passed an examination ~~prepared and administered by the board or an examination~~ prepared and administered by the national commission for the certification of acupuncturists or its successor."

Section 53. Section 37-14-306, MCA, is amended to read:

"37-14-306. Permits. (1) The board may issue a permit to an applicant not qualifying for the issuance of a license under the provisions of this chapter but who has demonstrated~~,~~ to the satisfaction of the board~~,~~ the capability of performing high-quality x-ray procedures without endangering public health and safety. An applicant

~~must be required to~~ shall demonstrate this capability by completion of formal classroom training that meets the standards established by rule and by means of examination. Permits issued under provisions of ~~this section and~~ 37-14-305 ~~shall~~ and this section must specify x-ray procedures, defined and established by rule, that may be performed by the holder. Permits ~~shall be~~ are valid for a period not to exceed 12 months but may be renewed under the provisions established by rule.

~~(2) Examinations for the issuance of a permit must include a written portion and may also include practical and oral portions as established by the board. The board shall provide applicants for permits the opportunity for examination at intervals not to exceed 6 months. A nonrefundable examination fee, established by the board, must be submitted prior to examination for a permit. An applicant failing the examination must be charged a nonrefundable examination fee for any subsequent examination. An applicant failing any subsequent examination shall meet any additional eligibility requirements established by rule for reexamination.~~

~~(3)~~(2) ~~Applicants~~ An applicant meeting minimum requirements for licensure ~~shall~~ must be issued a temporary permit to work as a radiologic technologist. This temporary permit ~~shall expire~~ expires 15 days after the date of first opportunity for examination.

~~(4)~~(3) The board shall issue temporary permits to unlicensed persons to perform x-ray procedures when adequate evidence is provided to the board that ~~such~~ a temporary permit is necessary because of a regional hardship or emergency condition and that ~~such person~~ the prospective recipient of a temporary permit is capable of performing x-ray procedures without endangering public health and safety. Temporary permits may not exceed 12 months in duration but may be renewed by reestablishing~~,~~ to the board's satisfaction~~,~~ evidence of continued regional hardship or emergency conditions. The required adequate evidence of regional hardship, emergency conditions, and capability to perform x-ray procedures without endangering public health and safety must be established by rule.

~~(5)~~(4) Each applicant for a permit must:

(a) be of good moral character;

(b) be at least 18 years of age; and

(c) not be addicted to intemperate use of alcohol or narcotic drugs."

Section 54. Section 37-16-202, MCA, is amended to read:

"37-16-202. Powers and duties. The powers and duties of the board are to:

(1) license persons who apply and are qualified to practice the fitting of hearing aids;

(2) establish a procedure to act as a grievance board to initiate or receive, investigate, and mediate

complaints from any source concerning the activities of persons licensed under this chapter or their agents, whether licensed or not;

~~(3) suspend or revoke licenses under this chapter;~~

~~(4) designate the time and place for examining applicants for license and supervise and administer the examination;~~

~~(5)~~(3) adopt rules necessary to carry out this chapter;

~~(6)~~(4) require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons who practice or engage in the business of fitting or selling hearing aids;

~~(7) prepare examinations required by the chapter;~~

~~(8)~~(5) initiate legal action to enjoin from operation a person engaged in the sale, dispensing, or fitting of hearing aids in this state that is not licensed under this chapter;

~~(9)~~(6) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411. Rules adopted by the board may include but are not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411.

~~(10)~~(7) establish and adopt minimum requirements for the form of bills of sale and receipts."

~~**Section 54.** Section 37-16-404, MCA, is amended to read:~~

~~**"37-16-404. Examinations -- subject areas.** The examinations provided in 37-16-403 An examination must consist of a test of knowledge and practical tests of proficiency, when they apply, in the following areas as they pertain to the fitting of hearing aids:~~

~~(1) acoustics:~~

~~(a) general principles;~~

~~(b) the decibel;~~

~~(c) hearing and speech;~~

~~(2) the human ear:~~

~~(a) external;~~

~~(b) middle;~~

~~(c) inner;~~

~~(3) the hearing process;~~

~~(4) disorders of hearing:~~

~~(a) conductive;~~

~~(b) sensorineural;~~

~~(c) central;~~

~~(d) psychogenic;~~

~~(5) audiometry:~~

~~(a) pure tone;~~

~~(b) theory;~~

~~(c) procedures;~~

~~(d) speech;~~

~~(6) the hearing analysis:~~

~~(a) audiogram;~~

~~(b) auditory area;~~

~~(7) hearing aids:~~

~~(a) history;~~

~~(b) characteristics;~~

~~(c) components;~~

~~(8) practical use of the otoscope:~~

~~(a) earmold;~~

~~(b) impression;~~

~~(9) fittings:~~

~~(a) hearing aid;~~

~~(b) earmold;~~

~~(10) delivery and checkup; or~~

~~(11) any change considered necessary by the board."~~

Section 55. Section 37-16-405, MCA, is amended to read:

"37-16-405. Trainee license. (1) An applicant who fulfills the requirements of 37-16-402 and who has not previously applied to take ~~the~~ a practical examination ~~under 37-16-403~~ may apply to the board for a trainee license.

(2) On receiving an application under subsection (1), accompanied by a fee fixed by the board and ~~commensurate with the cost of administering the license and related functions of the board and~~ verification that

the applicant has passed the written portion of the examination with a passing score as determined by board rule, the board shall issue a trainee license that entitles the applicant to engage in a 180-day training period during which the applicant:

(a) is required to pass the practical examination administered by the board before being issued a hearing aid dispenser's license; and

(b) shall work under the direct supervision of the sponsoring licensed hearing aid dispenser. During this time the applicant may do the testing necessary for proper selection and fitting of hearing aids and related devices and make necessary impressions. However, the delivery and final fitting of the hearing aid and related devices must be made by the trainee and the supervisor.

(3) The training period must consist of a continuous 180-day term. Any break in training requires application for another trainee license under rules that the board may prescribe.

(4) A trainee license may not be issued unless the board has on file an unrevoked statement from a qualified licensed hearing aid dispenser accepting responsibility for the trainee. Every licensed hearing aid dispenser supervising a trainee license holder shall submit a report every 90 days of the trainee's activities and training assignments, on forms furnished by the board. The supervisor is responsible for all hearing aid fittings of the trainee. A supervisor may terminate any responsibilities to the trainee by mailing by certified mail written notice to the board and the trainee.

(5) ~~(a)~~ If a person who holds a trainee license takes and fails to pass the practical examination during the training period, the board may authorize the department to renew the trainee license for a period of 180 days, during which the provisions of subsection (2)(b) apply. ~~In no event may more~~ More than one renewal ~~be~~ is not permitted.

~~(b) The fee for renewal must be set by the board commensurate with the cost of administering the license and related functions of the board.~~

(6) A person licensed as an audiologist under the provisions of Title 37, chapter 15, or a person practicing pursuant to 37-1-305 is exempt from the 180-day training period but is required to pass the examinations prescribed in this chapter.

(7) A licensed hearing aid dispenser who sponsors a trainee is directly responsible and accountable under the disciplinary authority of the board for the conduct of the trainee as if the conduct were the licensee's own.

(8) For the purposes of this section, "direct supervision" means the direct and regular observation and instruction of a trainee by a licensed hearing aid dispenser who is available at the same location for prompt

consultation and treatment."

Section 56. Section 37-17-302, MCA, is amended to read:

"37-17-302. ~~Application -- qualifications~~ Qualifications. ~~(1) Application for examination for licensure as a psychologist must be made on forms prescribed by the board.~~

~~(2)~~ The board shall license as a psychologist any person who pays the prescribed fee, passes the prescribed examination, and submits evidence ~~by oath~~ that the person:

~~(a)~~(1) is 18 years of age or older;

~~(b)~~(2) is of good moral character;

~~(c) (i)~~(3)(a) has received a doctoral degree in clinical psychology from an accredited college or university having an appropriate graduate program approved by the American psychological association;

~~(ii)~~(b) has received a doctoral degree in psychology from an accredited college or university not approved by the American psychological association and has successfully completed a formal graduate retraining program in clinical psychology approved by the American psychological association; or

~~(iii)~~(c) has received a doctoral degree in psychology from an accredited college or university and has completed a course of studies that meets minimum standards specified in rules by the board; and

~~(d)~~(4) has completed at the time of application a minimum of 2 years of supervised experience in the practice of psychology. One year of this experience must be postdoctoral but may not include more than 6 months of supervised research, teaching, or a combination of both."

Section 57. Section 37-18-202, MCA, is amended to read:

"37-18-202. ~~Powers of board and department -- examinations~~ Rulemaking. ~~(1)~~ The board may adopt rules ~~and orders~~ necessary ~~for the performance of its duties, including but not limited to:~~

~~(a) prescribing of forms for application for examination and license;~~

~~(b) preparation of examinations; and~~

~~(c) clarifying the use of support personnel and the provision of emergency services.~~

~~(2) The department shall, subject to 37-1-101, supervise the examination of applicants for license to practice veterinary medicine, obtain the services of professional examination agencies instead of its own preparation of examinations, and grant and revoke licenses~~ to carry out the purposes of this chapter."

~~**Section 58.** Section 37-18-303, MCA, is amended to read:~~

~~**"37-18-303. Examination.** (1) Subject to 37-1-101, the board shall, by means of examination as prescribed by the board, ascertain the professional qualifications for license of applicants under this part. The department shall issue a license to applicants who are found to be, in the judgment of the board, competent to practice. A license may not be issued to a person who is not found by the examination or investigation to be competent and qualified.~~

~~(2) Examinations must be held as determined necessary by the board, but not less frequently than once each year at a time and place specified by the board. The board may employ, cooperate with, or contract with any organization or consultant in the preparation, administration, and grading of an examination, but the board shall retain sole discretion and responsibility for determining which applicants have successfully passed an examination.~~

~~(3) The department shall consecutively number applications received, note on each the disposition made of it, and preserve the applications for reference. The board shall also number consecutively licenses issued.~~

~~(4) An applicant is required to achieve a passing grade, as determined by the board by rule, in order to obtain a license. An applicant who has failed an examination may apply to be reexamined at a subsequent examination and shall pay another application fee commensurate with the costs of the examinations as set by the board and shall take another complete examination in all subjects."~~

Section 58. Section 37-19-401, MCA, is amended to read:

"37-19-401. License required -- display of license ~~-- renewal -- penalty for late renewal~~. ~~(1)~~ An operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

~~(2) A mortuary license expires on the date set by department rule and may be renewed upon payment of a fee set by the board.~~

~~(3) The board may set a penalty for late renewal of a mortuary license.~~"

Section 59. Section 37-19-702, MCA, is amended to read:

"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal. (1) A person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the cremation of human remains and that conducts cremations must be licensed by the board~~, beginning July 1, 1993~~. The license must be displayed in a conspicuous place in the crematory facility.

(2) A crematory license expires on the date set by department rule and may be renewed upon payment

of a fee set by the board~~, which includes~~. The fee must include the cost of annual inspection. If a crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection of both a mortuary facility under 37-19-403 and a crematory facility.

~~(3) The board may set a penalty fee for late renewal of a license.~~

~~(4)~~(3) A person in charge of a licensed crematory facility must be licensed as a crematory operator by the board. A person employed by a licensed crematory facility must be licensed as a crematory technician by the board. The license must be displayed in a conspicuous place in the crematory facility.

~~(5)~~(4) Crematory operator and crematory technician licenses expire on the date set by department rule and may be renewed upon payment of a fee set by the board. On-the-job training must be provided to a crematory technician at the time of employment."

Section 60. Section 37-19-807, MCA, is amended to read:

"37-19-807. Powers and duties of board. The board is charged with administering this part. The board may:

(1) conduct reasonable periodic, special, or other examinations of a cemetery or cemetery company, including but not limited to an examination of the physical condition or appearance of the cemetery, an audit of the financial condition of the cemetery company and any trust funds maintained by the cemetery company, and any other examinations the board considers necessary or appropriate in the public interest. The board may also order examinations in response to public complaints. The examinations must be made by members or representatives of the board that may include a certified or registered public accountant or any other person designated by the board.

(2) issue or amend permits to operate a cemetery in accordance with the provisions of this part;

(3) adopt rules ~~and forms~~ to enforce the provisions of this part;

(4) require a cemetery company to observe minimum accounting principles and practices and to keep books and records in accordance with the principles and practices for ~~the~~ a period ~~of time~~ that the board may by rule prescribe; and

(5) require a cemetery company to provide additional contributions to the perpetual care and maintenance fund of the cemetery as provided for in this part, including but not limited to contributions not to exceed $1,000 whenever a cemetery company fails to properly care for, maintain, or preserve a cemetery."

Section 61. Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a physician assistant-certified in the practice of medicine, as defined in 37-3-102, and a physician assistant-certified may not be employed or practice as a physician assistant-certified unless the physician assistant-certified:

(a) is supervised by a licensed physician;

(b) is licensed by the Montana state board of medical examiners; and

(c) has received board approval of a physician assistant-certified utilization plan.

(2) A physician assistant-certified utilization plan must set forth in detail the following information:

(a) the name and qualifications of the supervising physician, as provided in 37-20-101, and the name and license number of the physician assistant-certified;

(b) the nature and location of the physician's medical practice;

(c) the scope of practice of the physician assistant-certified and the locations where the physician assistant-certified will practice;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to act as an alternate supervising physician in the absence of the primary supervising physician;

(e) necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified; and

(f) other information the board may consider necessary.

(3) The board shall approve the utilization plan if ~~it~~ the board finds that the practice of the physician assistant-certified is:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the physician assistant-certified.

(4) A supervising physician and a physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the criteria set out in 37-20-402, so long as the information requirements of subsection (2) have been met and the appropriate fee provided for in 37-20-302~~(1)~~ has been paid.

(5) A utilization plan may provide that a physician assistant-certified be allowed to furnish services on a locum tenens basis at a location other than the physician assistant-certified's primary place of practice. A locum

tenens utilization plan may be approved by a single board member."

Section 62. Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval and fee ~~-- renewal of license -- renewal fee~~. ~~(1)~~ A utilization plan must be submitted for approval, and a fee must be paid in an amount set by the board. Payment must be made when the utilization plan is submitted to the board and is not refundable.

~~(2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.~~

~~(3) A license issued under this part must be renewed for a period and on a date set by the department of labor and industry.~~

~~(4) A license renewal fee set by the board must be paid at the time the license is renewed.~~

~~(5) The department of labor and industry shall mail a renewal notice prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the license renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~

~~(7) Fees received by the department of labor and industry must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6).~~"

Section 63. Section 37-22-201, MCA, is amended to read:

"37-22-201. Duties of board. The board ~~shall~~:

~~(1) subject to 37-1-101, examine qualified applicants, issue licenses to qualified applicants that meet the requirements of this chapter, and renew licenses under the provisions of this chapter;~~

~~(2)~~(1) shall recommend prosecutions for violations of 37-22-411 and 37-23-311 to the attorney general or the appropriate county attorney, or both;

~~(3) annually publish a list of the names and addresses of all persons who are licensed social workers;~~

~~(4) establish requirements for continuing education that are a condition of license renewal;~~

~~(5)~~(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 22, and 23 ~~this section~~. The board may, once a year by a consensus of ~~its~~ board members, determine that there is no necessity for a board meeting.

~~(6) distribute a copy of the ethical standards to the certified masters of social work; and~~

~~(7)~~(3) shall adopt rules that set professional, practice, and ethical standards for ~~licensed masters of~~ social ~~work~~ workers and professional counselors and ~~such~~ other rules as may be reasonably necessary for the administration of chapter 23 and this chapter~~.~~; and

(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued."

Section 64. Section 37-22-301, MCA, is amended to read:

"37-22-301. License requirements -- exemptions. (1) A license applicant shall satisfactorily complete an examination ~~prepared and administered~~ prescribed by the board.

(2) Before an applicant may take the examination, the applicant shall present three letters of reference from licensed social workers, licensed clinical social workers, psychiatrists, or psychologists who have knowledge of the applicant's professional performance and shall demonstrate to the board that the applicant:

(a) has a doctorate or master's degree in social work from a program accredited by the council on social work education or approved by the board;

(b) has completed at least 24 months of supervised post master's degree work experience in psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years; and

(c) abides by the social work ethical standards adopted under 37-22-201.

~~(3) An applicant who submits an application for licensure before October 1, 1994, may acquire the supervised experience required by subsection (2)(b) in less than 24 months.~~

~~(4)~~(3) An applicant who ~~has failed~~ fails the examination may reapply to take the examination.

~~(5)~~(4) An applicant is exempt from the examination requirement if the applicant satisfies the board that the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and that the applicant has passed an examination similar to that required by the board."

Section 65. Section 37-22-302, MCA, is amended to read:

"37-22-302. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~equal to the cost of processing the application.~~

~~(2) Each applicant for a license required to take an examination shall, prior to commencement of the examination, pay an examination fee set by the board equal to the cost of administering the examination.~~

~~(3) Each applicant shall, prior to receipt of a license or license renewal, pay a fee set by the board equal to the cost of issuing a license.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 66. Section 37-23-101, MCA, is amended to read:

"37-23-101. Purpose. The legislature finds and declares that because the profession of professional counseling profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by ensuring ethical, qualified, and professional practice of professional counseling. This chapter and the rules promulgated by the board under ~~37-23-103~~ 37-22-201 set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of professional counseling as licensed professional counselors."

Section 67. Section 37-23-202, MCA, is amended to read:

"37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily ~~completed~~:

(a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum~~, which~~ that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) ~~and~~ passed an examination prepared and administered by:

~~(i) the board, based on a national examination approved by the board;~~

~~(ii)~~(i) the national board of certified counselors; or

~~(iii)~~(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application ~~form and process prescribed by the board~~.

(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester ~~hour graduate degree that is~~ hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years."

Section 68. Section 37-23-203, MCA, is amended to read:

"37-23-203. ~~Issuance, effective date, and display~~ Display of license. ~~(1) If an applicant meets the requirements contained in 37-23-202 and has paid the appropriate fees, the board shall issue a license to the applicant attesting to the date and fact of licensure. The license is effective on the date of issuance and must be renewed as provided in 37-23-205.~~

~~(2)~~ The license received pursuant to 37-23-202 must be displayed in the registrant's place of business or employment."

Section 69. Section 37-23-206, MCA, is amended to read:

"37-23-206. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~commensurate with costs.~~

~~(2) Each applicant for a license required to take an examination shall, before commencement of the examination, pay an examination fee set by the board commensurate with costs.~~

~~(3) Each applicant shall, before receipt of a license or license renewal, pay a fee set by the board commensurate with costs.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 70. Section 37-24-202, MCA, is amended to read:

"37-24-202. Powers and duties of board. (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

~~(b) evaluate the qualifications of applicants for licensure under this chapter and approve and supervise the examination of applicants;~~

~~(c)~~(b) adopt rules relating to professional licensure and the establishment of ethical standards of practice under this chapter; and

~~(d) conduct hearings and keep records and minutes as the board considers necessary to carry out its functions; and~~

~~(e)~~(c) adopt a seal by which the board shall authenticate ~~its~~ board proceedings.

(2) A copy of the proceedings, records, or acts of the board, signed by the presiding officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of the document.

~~(3) The department may employ persons it considers necessary to carry out the provisions of this chapter.~~"

Section 71. Section 37-24-303, MCA, is amended to read:

"37-24-303. Requirements for licensure. (1) To be eligible for licensure by the board as an occupational therapist or an occupational therapy assistant, the applicant shall:

(a) present evidence of having successfully completed the academic requirements of an educational program recognized by the board for the license sought;

(b) submit evidence of having successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution where the person completed the academic requirements or by a nationally recognized professional association;

(c) submit evidence of having been certified by the national board for certification in occupational therapy, inc. (NBCOT); and

(d) pass an examination ~~as provided for in 37-24-304~~ prescribed by the board.

(2) The supervised fieldwork experience requirement for an occupational therapist is a minimum of 6 months. The supervised fieldwork experience requirement for an occupational therapy assistant is a minimum of 2 months."

Section 72. Section 37-24-310, MCA, is amended to read:

"37-24-310. Fees. ~~(1)~~ The board may adopt fees in accordance with 37-1-134 for:

~~(a)~~(1) applications for licensure;

~~(b) examination;~~

~~(c)~~(2) initial license issuance; and

~~(d) license renewal;~~

~~(e) late license renewal; and~~

~~(f)~~(3) limited permit issuance.

~~(2) All fees collected by the board under this section must be deposited in the state special revenue fund for the use of the board in administering this act, subject to 37-1-101(6).~~"

Section 73. Section 37-25-201, MCA, is amended to read:

"37-25-201. Powers and duties of the board. In addition to all other powers and duties conferred and imposed on the board by Title 37, chapter 1, and this chapter, the board shall~~:~~

~~(1) examine qualified applicants for a license to practice dietetics-nutrition, issue licenses to applicants who meet the requirements established by this chapter, and renew licenses as provided in 37-25-307; and~~

~~(2)~~ adopt rules that set professional, practice, and ethical standards for licensed nutritionists and ~~such~~ other rules as may be necessary for the administration of this chapter."

Section 74. Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

~~(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;~~

~~(4)~~(3) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

~~(5)~~(4) adopt rules that set nonrefundable fees~~, commensurate with costs,~~ for application, ~~examination,~~ and licensure~~, and other administrative services~~;

~~(6)~~(5) approve naturopathic medical colleges as defined in 37-26-103;

~~(7)~~(6) issue certificates of specialty practice;

~~(8)~~(7) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301;

~~(9)~~(8) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301; and

~~(10)~~(9) adopt rules to implement the provisions in 37-1-138."

Section 75. Section 37-26-403, MCA, is amended to read:

"37-26-403. Application for licensure -- examination -- temporary license. (1) A person who desires a license to practice naturopathic medicine in Montana shall apply to the department ~~in the manner and form prescribed by the board~~. The application must be accompanied by the license fees, the application fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the necessary qualifications and whether the applicant has committed unprofessional conduct that would be a basis for licensure denial. At the board's request,

the applicant shall provide necessary authorizations for the release of records and information pertinent to the department's investigation.

(2) A person who applies for licensure but who has not passed a licensure examination prescribed or endorsed by the board shall apply to the board for authorization to take the prescribed licensure examination. ~~The application for examination must be accompanied by the examination fee.~~ If the board finds that all other qualifications for licensure except that of examination have been met, the board shall authorize the applicant to take the licensure examination."

Section 76. Section 37-27-105, MCA, is amended to read:

"37-27-105. General powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules may include but are not limited to:

~~(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;~~

~~(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989;~~

~~(c)~~(a) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

~~(d)~~(b) the development of eligibility criteria for client screening by direct-entry midwives ~~in order~~ to achieve the goal of providing midwifery services to women during low-risk pregnancies;

~~(e) the development of procedures for the issuance, renewal, suspension, and revocation of licenses consistent with the provisions in 37-1-138;~~

~~(f) the adoption of disciplinary standards for licensees;~~

~~(g)~~(c) the development of standardized informed consent and reporting forms;

~~(h)~~(d) the adoption of ethical standards for licensed direct-entry midwives;

~~(i)~~(e) the adoption of supporting documentation requirements for primary birth attendants; and

~~(j)~~(f) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201."

Section 77. Section 37-27-210, MCA, is amended to read:

"37-27-210. Fees. (1) An applicant for a direct-entry midwife license shall, upon submitting an application to the board, pay an application fee set by the board~~, commensurate with costs~~.

~~(2) An applicant required to take an examination shall, before commencement of the examination, pay an examination fee set by the board, commensurate with costs.~~

~~(3)~~(2) Before a license may be issued or renewed, an applicant shall pay a fee set by the board~~, commensurate with costs~~.

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~

~~(5)~~(3) Fees are nonrefundable."

Section 78. Section 37-28-104, MCA, is amended to read:

"37-28-104. Board powers and duties. (1) The board shall~~:~~

~~(a) examine,~~ license, grant temporary permits, and renew the licenses or permits of duly qualified applicants~~;~~

~~(b) establish examinations and passing scores for licensure under 37-28-202;~~

~~(c) adopt and implement rules for continuing education requirements to ensure the quality of respiratory care~~.

(2) The board may~~:~~

~~(a)~~ adopt rules necessary to implement the provisions of this chapter~~; and~~

~~(b) establish relicensing requirements and procedures that the board considers appropriate~~."

Section 79. Section 37-28-202, MCA, is amended to read:

"37-28-202. Licensing requirements -- examination -- fees. (1) To be eligible for licensure by the board as a respiratory care practitioner, the applicant shall:

(a) submit to the board an application fee in an amount established by the board and ~~a written~~ an application ~~on a form provided by the board~~ demonstrating that the applicant has completed:

(i) high school or the equivalent; and

(ii) a respiratory care educational program accredited or provisionally accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education or their successor organizations; and

(b) pass an examination prescribed by the board. The board may use the entry-level examination written by the national board for respiratory care or another examination that satisfies the standards of the national commission for health certifying agencies or the commission's equivalent.

(2) A person holding a license to practice respiratory care in this state may use the title "respiratory care practitioner" and the abbreviation "RCP"."

Section 80. Section 37-29-306, MCA, is amended to read:

"37-29-306. Licensing. (1) A denturist license is valid for a period established by department rule ~~and expires on the date set by department rule. A renewal license must be issued upon timely payment of the renewal fee and the submission of proof of continued qualification for licensure. In addition, the~~. A denturist shall submit proof that the denturist holds a current cardiopulmonary resuscitation card. ~~The license must bear on its face the address where the licensee's denturist services will be performed.~~

(2) ~~Applications~~ An application must be submitted on ~~forms approved by the board and~~ a form furnished by the department. Each application must include all other documentation necessary to establish that the applicant meets the requirements for licensure and is eligible to take the licensure examination. ~~Applications~~ An application must be accompanied by the appropriate fees.

~~(3) This section may not be interpreted to conflict with 37-1-138.~~"

Section 81. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall prescribe rules for:

(1) the conduct of ~~its~~ board business;

(2) the qualification~~, examination,~~ and ~~registration~~ licensure of applicants to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or manicuring;

(3) the regulation and instruction of apprentices and students;

(4) the conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring for apprentices and students;

(5) the qualification and ~~registration~~ licensure of applicants for booth rental licenses; and

(6) generally the conduct of the persons, firms, or corporations affected by this chapter."

Section 82. Section 37-31-302, MCA, is amended to read:

"37-31-302. License required to practice, teach, or operate salon or shop, booth, or school. (1) A person may not practice or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license.

(2) A place may not be used or maintained for the teaching of barbering, cosmetology, electrology, esthetics, or manicuring for compensation ~~except under a certificate of registration~~ unless licensed as a school.

(3) A person may not operate or manage a salon or shop without a license.

(4) A person may not operate or conduct a school of barbering, cosmetology, electrology, esthetics, or manicuring or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license to teach barbering, cosmetology, electrology, esthetics, or manicuring.

(5) A person may not manage or operate a booth without a booth rental license.

(6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon or shop shall apply to the department for a ~~certificate of registration and~~ license. The application must be accompanied by the ~~registration~~ license fee.

(7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."

Section 83. Section 37-31-303, MCA, is amended to read:

"37-31-303. Application for license to practice or teach. An applicant for a license to practice or teach barbering, cosmetology, electrology, esthetics, or manicuring shall file an application ~~prescribed by the board~~ provided by the department and pass the examination prescribed by the board ~~in order~~ to qualify for licensure. ~~The license must be renewed in accordance with the provisions of 37-31-322.~~"

Section 84. Section 37-31-304, MCA, is amended to read:

"37-31-304. Qualifications of applicants for license to practice. (1) Before a person may practice:

(a) barbering, the person shall obtain a license to practice barbering from the department~~. Before a person may practice~~;

(b) cosmetology, the person shall obtain a license to practice cosmetology from the department~~. Before a person may practice~~;

(c) electrology, the person shall obtain a license to practice electrology from the department~~. Before a~~

~~person may practice~~;

(d) manicuring, the person shall obtain a license to practice manicuring from the department unless the person is licensed to practice cosmetology~~. Before a person may practice~~; or

(e) esthetics, the person shall obtain a license to practice esthetics from the department unless the person is already licensed to practice cosmetology.

(2) (a) To be eligible to take the examination to practice barbering, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 1,500 hours in a ~~registered~~ licensed barbering school and must have received a diploma from the barbering school or must have completed the course of study in barbering at a school of cosmetology authorized to offer a course of study in barbering prescribed by the board.

(b) A person qualified under subsection (2)(a) shall file ~~a written~~ an application and deposit the application fee with the department and pass an examination as to fitness to practice barbering.

(c) The board shall issue a license to practice barbering, without examination, to a person licensed in another state if the board determines that:

(i) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and

(ii) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.

(3) (a) To be eligible to take the examination to practice cosmetology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 2,000 hours in a ~~registered~~ licensed cosmetology school and must have received a diploma from the cosmetology school or must have completed the course of study in cosmetology prescribed by the board.

(b) A person qualified under subsection (3)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice cosmetology.

(4) (a) To be eligible to take the examination to practice electrology, the applicant must be at least 18

years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of education, training, and experience in the field of electrology as prescribed by the board by rule.

(b) A person qualified under subsection (4)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice electrology.

(5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of manicuring. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or a certificate of completion from a vocational-technical program. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (5)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice manicuring.

(6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board and consisting of not less than 650 hours of training and instruction in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of esthetics. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (6)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice esthetics."

Section 85. Section 37-31-305, MCA, is amended to read:

"37-31-305. Qualifications of applicants for license to teach. (1) Before a person may teach manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics or to teach cosmetology, the person shall obtain from the department a license to teach cosmetology.

(2) To be eligible to take an examination to obtain a license to teach cosmetology, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized by the superintendent of public instruction; and

(b) (i) have a license to practice cosmetology issued by the department and have received a diploma from a ~~registered~~ licensed school of cosmetology approved by the board, certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(3) Before a person may teach manicuring to a person seeking only to be licensed to practice manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach manicuring.

(4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice manicuring or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(5) Before a person may teach esthetics to a person seeking only to be licensed to practice esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach esthetics.

(6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice esthetics or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(7) To be eligible to take an examination to obtain a license to teach barbering, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the

superintendent of public instruction; and

(b) (i) have a license to practice barbering issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 500 hours of student teacher training; or

(ii) have been actively engaged as a barber for 3 continuous years immediately before taking the teacher's examination.

(8) To be eligible to take an examination for a license to teach electrology, a person must:

(a) be a high school graduate or possess an equivalent of a high school diploma recognized by the superintendent of public instruction;

(b) have a 100-hour teacher certificate; and

(c) have been actively engaged as an electrologist for 3 continuous years immediately preceding taking the teacher's examination."

Section 86. Section 37-31-308, MCA, is amended to read:

"37-31-308. ~~Examination -- reexamination -- exemption~~ Exemption for persons with disabilities. ~~(1) Examinations for a license to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or manicuring must be held at places and times specified by the board. The examinations may not be confined to a specific method or system. The board may contract with an outside agency for examination and grading services.~~

~~(2)~~ ~~Persons~~ A person with a physical ~~disabilities~~ disability who is trained for barbering, cosmetology, electrology, esthetics, or manicuring by the department of public health and human services ~~are~~ is, for a period of 1 year immediately following ~~their~~ graduation, exempt from the examination and the fees described in 37-31-323. On certification from the department of public health and human services that a department of public health and human services beneficiary has successfully completed the required training in a school of barbering, cosmetology, electrology, esthetics, or manicuring, the department shall issue the person the necessary ~~certificate or~~ license to practice the profession in this state."

Section 87. Section 37-31-311, MCA, is amended to read:

"37-31-311. Schools -- ~~certificate of registration~~ license -- requirements -- bond -- curriculum. (1) A person, firm, partnership, corporation, or other legal entity may not operate a school for the purpose of teaching barbering, cosmetology, electrology, esthetics, or manicuring for compensation unless ~~a certificate of registration~~

~~has been first obtained from~~ licensed by the department. Application for the ~~certificate~~ license must be filed with the department on ~~a~~ an approved form ~~prescribed by the board~~.

(2) A school for teaching barbering may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of barbering.

(c) It maintains a school term of not less than 1,500 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of barbering.

(3) A school for teaching cosmetology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of cosmetology.

(c) It maintains a school term of not less than 2,000 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of cosmetology.

(4) A school for teaching electrology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the

school maintains a school term~~, prescribes~~ and a course of practical training and technical instruction prescribed by the board, and possesses apparatus and equipment necessary for teaching electrology as prescribed by the board.

(5) A school for teaching manicuring may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of manicuring.

(b) It maintains a school term and ~~prescribes~~ a course of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of manicuring.

(6) A school for teaching esthetics may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the ready and full teaching of all subjects or practices of esthetics.

(b) It maintains a school term and a course consisting of not less than 650 hours of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of esthetics.

(7) Licenses ~~or certificates of registration~~ for schools of barbering, cosmetology, electrology, esthetics, or manicuring may be refused, revoked, or suspended as provided in 37-31-331.

(8) A teacher or student teacher may not be permitted to practice barbering, cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a course of student teacher training may not have, at any one time, more than one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

(9) The board may make further rules necessary for the proper conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring.

(10) The board shall require the person, firm, partnership, corporation, or other legal entity operating a school of barbering, cosmetology, electrology, esthetics, or manicuring to furnish a bond or other security in the amount of $5,000 and in a form and manner prescribed by the board.

(11) A professional salon or shop may not be operated in connection with a school of barbering, cosmetology, electrology, esthetics, or manicuring.

(12) The board may, by rule, establish a suitable curriculum for teachers' training in ~~registered~~ licensed schools of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 88. Section 37-31-312, MCA, is amended to read:

"37-31-312. Inspection. (1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or shops and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, school of barbering, school of cosmetology, school of electrology, school of esthetics, or school of manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit the inspection during business hours is cause for revocation of a licensee's or school's license ~~or a school's certificate of registration~~.

(2) Upon application for a license, a salon or shop shall pay an initial inspection fee prescribed by the board.

(3) The board may authorize the department to grant to a salon or shop, upon payment of the initial inspection fee, a temporary permit authorizing the salon or shop to operate for a period not to exceed 90 days or until the inspector is able to make the inspection, whichever occurs first. A temporary permit is not renewable.

(4) The department shall require the inspector or inspectors, appointed as provided in subsection (1), to conduct an annual inspection of each salon or shop in the state."

Section 89. Section 37-31-323, MCA, is amended to read:

"37-31-323. Fees. (1) Fees for licenses ~~and certificates of registration~~ must be paid to the department in amounts prescribed by the board.

(2) The license ~~and registration~~ fees must be paid in advance to the department unless otherwise provided by board rule.

(3) Other or additional license ~~or registration~~ fees may not be imposed by a municipal corporation or other political subdivision of this state for the practice or teaching of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 90. Section 37-34-201, MCA, is amended to read:

"37-34-201. Powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of ~~a license application procedure and~~ acceptable certifications for each category of license;

~~(b) the establishment of license fees commensurate with actual costs;~~

~~(c)~~(b) the establishment of criteria for educational requirements that, at a minimum, meet the standards set forth in 37-34-303; and

~~(d) the development of procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses consistent with the provisions in 37-1-138;~~

~~(e) the adoption of disciplinary standards for licensees;~~

~~(f) the establishment of hearing procedures; and~~

~~(g)~~(c) a requirement that the supervisor of a clinical laboratory technician be accessible at all times that testing is being performed by the technician in order to provide onsite, telephonic, or electronic consultation."

Section 91. Section 37-34-305, MCA, is amended to read:

"37-34-305. Licensure application procedures. (1) An applicant shall submit an application for a license to the board ~~upon the forms prescribed and furnished by the board~~ and shall pay an application fee set by the board.

(2) Upon receipt of the application and fee, the ~~board~~ department shall issue a license for a clinical laboratory scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and 37-34-303.

~~(3) A license issued under this chapter must be renewed on or before the date set by department rule.~~

~~(4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~"

Section 92. Section 37-35-103, MCA, is amended to read:

"37-35-103. Department powers and duties. (1) The department shall:

(a) ~~examine,~~ license~~,~~ and renew the licenses of qualified applicants;

(b) adopt rules:

(i) for eligibility requirements and competency standards;

~~(ii) prescribing the time, place, content, and passing requirements of the licensure and competency examinations and passing scores for licensure under 37-35-202;~~

~~(iii) for application forms and fees for licensure and for renewal and licensure expiration dates; and~~

~~(iv)~~(ii) defining any unprofessional conduct that is not included in ~~37-1-316~~ 37-1-410; and

~~(c)~~(iii) ~~adopt and implement rules~~ setting criteria for training programs, internships, and continuing education requirements to ensure the quality of addiction counseling.

(2) The department may:

(a) adopt rules necessary to implement the provisions of this chapter;

(b) adopt rules specifying the scope of addiction counseling that are consistent with the education required by 37-35-202; and

(c) establish licensure requirements and procedures that the department considers appropriate."

Section 93. Section 37-40-302, MCA, is amended to read:

"37-40-302. Application -- examination -- certificate. (1) A person wishing to practice the profession of sanitarian may apply to the department for registration on a form ~~prescribed~~ furnished by the ~~board~~ department.

(2) An applicant must have a minimum of a bachelor's degree in environmental health or its equivalent from an accredited university or college ~~and shall pass an examination given at a time and place set by the board. The board shall establish procedures for examination and determination of passing scores by rule~~.

(3) If the applicant meets the board's standards and passes the examination prescribed by the board, the department shall issue a certificate of registration.

(4) ~~Holders~~ A holder of a current ~~certificates are~~ certificate is entitled to append to ~~their~~ the holder's name the initials "R.S."."

Section 94. Section 37-42-304, MCA, is amended to read:

"37-42-304. Application for operator's certificate -- fee. A person desiring to engage in the operation of a water treatment plant, water distribution system, or wastewater treatment plant shall first file an application

with the department for a proper certificate. The department shall charge a fee of the same amount as the license cost ~~as established pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of processing the application is offset by federal funds received. The department may not act on an application until the fee has been paid."

Section 95. Section 37-42-308, MCA, is amended to read:

"37-42-308. Annual renewal -- fees -- revocation for failure to renew -- reinstatement -- notice of suspension. (1) Certificates issued under this chapter must be renewed annually before July 1. A certificate issued after July 1 expires the following June 30. After the payment of the initial fee under 37-42-304, a certificate holder shall pay before July 1 of each certificate year a renewal fee according to the schedule adopted by the department ~~pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of administering the certificate is offset by federal funds received to fund the administration of the program.

(2) Subject to subsection (6), if a certificate holder does not apply for a renewal of the certificate before July 1 and remit to the department the necessary renewal fee, the department shall suspend the certificate. Subject to subsection (6), the department shall revoke any certificate that remains suspended for a period of more than 30 days. However, the department, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of ~~its~~ the department's intention to revoke, at least 10 days before the time set for action to be taken by the department on the certificate.

(3) A certificate once revoked may not be reinstated unless it appears that an injustice has occurred through error or omission or other fact or circumstances indicating to the department that the certificate holder was not guilty of negligence or laches.

(4) Notice of suspension must be given to the certificate holder when the suspension occurs and to the proper official or owner of the treatment works or distribution system.

(5) If a person whose certificate has been revoked through the person's own fault desires to continue as a water or wastewater plant operator, the person shall ~~make application~~ apply to the department under 37-42-304. Successful completion of an examination may be required at the discretion of the department.

(6) This section may not be interpreted to conflict with the provisions of 37-1-138."

Section 96. Section 37-47-101, MCA, is amended to read:

"37-47-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accompany" means to go with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in the area where the activity is being conducted and within sight or sound of the participant at some time during the furnishing of service.

(2) "Base of operations" means the primary physical location where an outfitter receives mail and telephone calls, conducts regular daily business, and bases livestock, equipment, and staff during the hunting season.

(3) "Board" means the board of outfitters provided for in 2-15-1773.

(4) "Camp" means each individual facility or group of facilities that an outfitter uses to lodge a client for a client's trip or uses to lodge a client in the operating area designated in the outfitter's operations plan, including a motel, campground, bed and breakfast, lodge, tent camp, cabin, camper, trailer, or house.

(5) "Consideration" means something of value given or done in exchange for something of value given or done by another.

(6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(7) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.

(8) "License year" means ~~that~~ the period ~~beginning January 1 and ending December 31 of the same year~~ indicated on the face of the license for which the license is valid.

(9) "Net client hunter use" or "NCHU" means the most actual clients served by an outfitter in any NCHU license category in any license year, as documented by verifiable client logs or other documents maintained by the board pursuant to 37-47-201~~(7)~~.

(10) "Nonresident" means a person other than a resident.

(11) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal; facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or professional guide in accompanying that person.

(12) "Participant" means a person using the services offered by a licensed outfitter.

(13) "Professional guide" means a guide who ~~has met~~ meets experience, training, and testing qualifications for designation as a professional guide, as set by board rule.

(14) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102."

Section 97. Section 37-47-201, MCA, is amended to read:

"37-47-201. Powers and duties of board relating to outfitters, guides, and professional guides. The board shall:

~~(1) prepare and publish an information pamphlet that contains the names and addresses of all licensed outfitters. This pamphlet must be available for free distribution as early as possible during each calendar year but not later than the second Friday in March. The pamphlet must contain the names and addresses of only those outfitters who have a valid license for the current license year.~~

~~(2)~~(1) cooperate with the federal government in matters of mutual concern regarding the business of outfitting and guiding in Montana;

~~(3)~~(2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;

~~(4)~~(3) establish outfitter standards, guide standards, and professional guide standards;

~~(5)~~(4) adopt:

~~(a) rules of procedure;~~

~~(b)~~(a) rules to administer and enforce this chapter, including rules prescribing all requisite qualifications for licensure as an outfitter, guide, or professional guide. Qualifications for outfitters must include training, testing, experience in activities similar to the service to be provided, knowledge of rules of governmental bodies pertaining to outfitting and condition and type of gear and equipment, and the filing of an operations plan.

~~(c)~~(b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health, safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing or offering to practice as an outfitter, guide, or professional guide;

~~(d)~~(c) rules specifying standards for review and approval of proposed new operations plans involving hunting use or the proposed expansion of net client hunter use, as set forth in 37-47-316 and 37-47-317, under an outfitter's existing operations plan. Approval is not required when part or all of an existing operations plan is transferred from one licensed outfitter to another licensed outfitter. Rules adopted pursuant to this section must provide for solicitation and consideration of comments from hunters and sportspersons in the area to be affected by the proposal who do not make use of outfitter services.

~~(e)~~(d) rules establishing outfitter reporting requirements. The reports must be filed annually and report actual leased acreage actively used by clients during that year and actual leased acres unused by clients during

that year, plus any other information designated by the board and developed in collaboration with the department of fish, wildlife, and parks or the review committee established in 87-1-269 that is considered necessary to evaluate the effectiveness of the hunter management and hunting access management programs.

~~(6)~~(5) hold hearings and proceedings to suspend or revoke licenses of outfitters, guides, and professional guides for due cause;

~~(7)~~(6) maintain records of actual clients served by all Montana outfitters that fulfill the requirements of subsection ~~(5)(c)~~ (4)(d)."

Section 98. Section 37-47-304, MCA, is amended to read:

"37-47-304. Application. (1) Each applicant for an outfitter's, guide's, or professional guide's license shall apply for a license on a form ~~prescribed and~~ furnished by the ~~board~~ department.

(2) The application for an outfitter's license forms the basis for the outfitter's operations plan and must include:

(a) the applicant's full name, residence, address, conservation license number, driver's license number, birth date, physical description, and telephone number;

(b) the address of the applicant's principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the applicant;

(d) the experience of the applicant, including:

(i) years of experience as an outfitter, guide, or professional guide;

(ii) the applicant's knowledge of areas in which the applicant has operated and intends to operate; and

(iii) the applicant's ability to cope with weather conditions and terrain;

(e) a signed statement of the licensed outfitter for each guide and professional guide to be employed or retained as an independent contractor, stating that the guide or professional guide is to be employed by the outfitter and stating that the outfitter recommends the guide or professional guide for licensure;

(f) an affidavit by the outfitter to the board that the equipment listed on the application is in fact owned or leased by the applicant, is in good operating condition, and is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant;

(g) a statement of the maximum number of participants to be accompanied at any one time;

(h) the written approval of the appropriate agency or landowner on whose lands the applicant ~~will~~ intends to provide services or establish hunting camps; and

(i) the boundaries of the proposed operation, stating when applicable:

(i) the name and portion of river;

(ii) the county of location;

(iii) the legal owner of the property;

(iv) the name of the ranch;

(v) the proposed service, including the type of game sought;

(vi) the name of the agency granting use authority; and

(vii) other means of identifying boundaries as established by board rule.

(3) ~~Applications~~ An application for an outfitter's license must be in the name of an individual person only. ~~Applications~~ An application involving corporations, proprietorships, or partnerships must be made by one individual person who qualifies under the provisions of this part. A license issued pursuant to this part must be in the name of that person. Any revocation or suspension of a license is binding upon the individual person and the corporation, proprietorship, or partnership for the use and benefit of which the license was originally issued.

(4) Application must be made to and filed with the board.

(5) Only one application for an outfitter's license may be made in any license year. If an application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 37-47-308."

Section 99. Section 37-50-304, MCA, is amended to read:

"37-50-304. Public accountants -- licensure without examination of former military personnel -- examination otherwise required. (1) ~~Persons~~ A person serving in the armed forces of the United States on July 1, 1969, who immediately prior to entering ~~this service held themselves out~~ the armed forces represented to the public ~~as~~ that the person was a public ~~accountants~~ accountant and who ~~were~~ was engaged as ~~principals~~ a principal in this state in the practice of public accounting as ~~their~~ the person's principal occupation prior to service in the armed forces may register with the department within 6 months after the date of ~~their~~ the person's separation from active service and, on registration and payment of the license fee, be issued a license by the department as a licensed public accountant. A principal is either the owner of or a partner in an existing accounting practice on July 1, 1969.

(2) ~~In order to~~ To be issued a license as a licensed public accountant, a person who does not qualify under subsection (1) shall successfully complete those portions of the examination ~~provided for in 37-50-308~~ prescribed by the board by rule. The board may require successful completion of alternate portions of the

examination for applicants holding valid United States treasury cards at the time of taking the examination."

Section 100. Section 37-51-204, MCA, is amended to read:

"37-51-204. Educational programs. (1) The board may, subject to 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in this connection.

(2) Except as provided in 37-51-302 and subsection (3) of this section, the board may not require examinations of licensees.

(3) The board may require specified performance levels of a licensee with respect to the subject matter of a continuing education course required ~~under 37-51-310~~ by the board when the licensee and the instructor of the course are not physically present in the same facility at the time the licensee receives the instruction."

Section 101. Section 37-51-303, MCA, is amended to read:

"37-51-303. Broker or salesperson examination. (1) In addition to proof of honesty, trustworthiness, and good reputation, an applicant whose application is pending shall satisfactorily pass an examination ~~prescribed by or under the supervision of the board. The examination must be given at least once each 6 months and at places within the state that the board prescribes~~.

(2) (a) The examination for a salesperson's license must include subject portions that the board determines by rule to be appropriate.

(b) If the applicant passes one subject portion of the examination, the applicant is not required to repeat that portion of the examination if the applicant passes the remaining portion within 12 months.

(3) The examination for a broker's license must be of a more exacting nature and scope and more stringent than the examination for a salesperson's license."

Section 102. Section 37-51-305, MCA, is amended to read:

"37-51-305. License ~~-- form~~ -- delivery -- display -- pocket card. (1) ~~The board shall prescribe the form of license.~~ A license ~~shall~~ must bear the seal of the board.

(2) The license of a real estate salesperson ~~shall~~ must be delivered or mailed to the real estate broker with whom the real estate salesperson is associated and ~~shall~~ must be kept in the custody and control of the broker.

(3) A broker shall display ~~his~~ the broker's own license conspicuously in ~~his~~ the broker's place of business.

(4) The department shall annually prepare and deliver a pocket card certifying that the person whose name appears is a registered real estate broker or a registered real estate salesperson, stating the period for which fees have been paid and, on real estate salesperson's cards only, the name and address of the broker with whom ~~he~~ the real estate salesperson is associated."

Section 103. Section 37-51-603, MCA, is amended to read:

"37-51-603. Qualification of property manager applicants -- examination -- form of licenses. (1) The board by rule shall require an applicant for licensure to provide information that the board believes is necessary to ensure that a person granted a property manager license is of good repute and competent to transact the business of a property manager in a manner that safeguards the welfare and safety of the public.

(2) (a) The board shall require an applicant for a property manager license to:

(i) apply for licensure to the department;

(ii) furnish written evidence that the applicant has completed the number of classroom hours that the board determines appropriate in a course of study approved by the board and taught by instructors approved by the board; and

(iii) satisfactorily complete an examination dealing with the material taught in the course of study.

(b) The course of study must include the subjects of real estate leasing principles, real estate leasing law, and related topics.

~~(3) Examinations must be given at least once every 4 months at places within the state that the board prescribes. The board shall establish by rule the contents of and requirements to pass the examination.~~

~~(4)~~(3) An applicant for licensure as a property manager must be at least 18 years of age and must have graduated from an accredited high school or completed an equivalent education as determined by the board.

~~(5)~~(4) The ~~board shall prescribe the form of the license, and the~~ license must bear the seal of the board. A property manager shall display the license conspicuously in the property manager's place of business.

~~(6)~~(5) The department shall prepare and deliver to the licensee a pocket card in a form and at times prescribed by the board."

Section 104. Section 37-53-104, MCA, is amended to read:

"37-53-104. Rulemaking authority. The board shall adopt rules to carry out the provisions of this chapter. The rules may include but are not limited to:

(1) ~~format of forms for applications and renewal of registration~~ qualifications for applicants and

~~prescribing~~ any additional applicant information ~~to~~ that must be supplied;

(2) documents acceptable in lieu of registration documents under 37-53-204;

(3) conditions that may be placed upon registration under 37-53-212;

(4) the subject matter of the examination or continuing education requirement for license as a timeshare salesperson or timeshare broker; ~~and~~

(5) additional information included in a disclosure document; and

(6) fees established pursuant to 37-1-134."

Section 105. Section 37-60-304, MCA, is amended to read:

"37-60-304. Licenses -- application form and content. (1) Except as provided in 37-60-303(8), an application for a license must be made on ~~a~~ an approved form ~~prescribed by the board~~ and accompanied by the application fee set by the board.

(2) An application must be made under oath and must include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, a private investigator, or a private security guard;

(e) one recent photograph of the applicant, of a type prescribed by the board, and two classifiable sets of the applicant's fingerprints;

(f) a statement of the applicant's age and experience qualifications; and

(g) other information, evidence, statements, or documents as may be prescribed by the rules of the board.

(3) The board shall verify the statements in the application and the applicant's moral character.

(4) The submittal of fingerprints ~~must be~~ is a prerequisite to the issuance of a license by means of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

(5) The board shall send written notification to the chief of police, sheriff, and county attorney in whose jurisdiction the principal office of the applicant is to be located that an application has been submitted."

Section 106. Section 37-66-304, MCA, is amended to read:

"37-66-304. (Temporary) Qualifications not required -- application for licensure. (1) A person

wishing to practice landscape architecture in this state shall apply to the department for a license and successfully pass ~~a written~~ an examination ~~established~~ prescribed by the board.

(2) Each applicant must be admitted to the examination without prerequisite qualifications. (Terminates September 30, 2005--sec. 78, Ch. 492, L. 2001.)

37-66-304. (Effective October 1, 2005) Qualifications and application for licensure. (1) A person wishing to practice landscape architecture in this state shall apply to the department for a license.

(2) Each applicant for licensure must have successfully completed the educational, practical experience, and ~~written~~ examination requirements ~~established~~ prescribed by the board."

Section 107. Section 37-67-303, MCA, is amended to read:

"37-67-303. Application -- contents -- examination -- fees. (1) ~~Applications~~ An application for licensure must be on ~~forms prescribed by the board and~~ a form furnished by the department~~, must contain statements made under oath showing the applicant's education and~~ that provides for a detailed summary of the applicant's technical work~~,~~ and that must contain the required references.

(2) The application fee for an engineer intern is as prescribed by the board and must accompany the application. An additional fee is not required for the issuance of a certificate.

(3) The application fee for licensure as a professional engineer is as prescribed by the board for those holding ~~an~~ a board-approved engineer intern certificate ~~validated for Montana. For those holding a valid engineer intern certificate from some other state, the application fee is as prescribed by the board, which includes the cost of verification of engineer intern certification or licensure. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.~~

~~(4) The department, subject to approval by the board, may, on approval of the application and payment of an application fee as prescribed by the board, issue a license as a professional engineer to a person who holds a certificate of qualification or licensure issued to the person by the committee on national engineering certification of the national council of examiners for engineering and surveying or by a state, territory, or possession of the United States or by another country if the applicant's qualifications meet the requirements of this chapter and the rules of the board~~.

(4) An applicant for a license as a professional engineer shall file an application and satisfactorily pass an examination prescribed by the board. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.

(5) The application fee for a land surveyor intern is as prescribed by the board and must accompany the application. An additional fee is not required for issuance of a certificate.

(6) The application fee for licensure as a professional land surveyor is as prescribed by the board for those holding a board-approved land surveyor intern certificate ~~validated in Montana. For those holding a valid land surveyor intern certificate from some other state, the application fee is as prescribed by the board, which includes cost of verification of the certification~~. Upon approval of an application for licensure as a professional land surveyor and passage of the required ~~examination~~ examinations, the department shall issue a license as a professional land surveyor.

(7) (a) The application fee for licensure as both a professional engineer and professional land surveyor is as prescribed by the board for those holding board-approved engineer intern and land surveyor intern certificates ~~validated in Montana. For those holding valid engineer intern and land surveyor intern certificates from another jurisdiction, the application fee is as prescribed by the board~~.

(b) The fee must accompany the application. Upon approval of an application for licensure as a professional engineer and professional land surveyor and passage of the required examinations, the department shall issue a license.

(8) If the board denies the issuance of a license to any applicant, the initial fee deposited must be retained as an application fee."

Section 108. Section 37-67-321, MCA, is amended to read:

"37-67-321. Emeritus status. (1) A licensee who no longer practices engineering or land surveying may apply to the ~~board~~ department for emeritus status.

(2) Upon receiving an application for emeritus status accompanied by the fee established by the board, the ~~board~~ department shall issue a license of emeritus status to the applicant and record the applicant's name in the roster as an emeritus licensee, along with the date on which the licensee received emeritus status.

(3) An emeritus licensee may retain but may not use the licensee's seal and may not practice engineering or land surveying.

(4) The ~~board~~ department shall reissue a license to an emeritus licensee who pays all application fees, meets all current requirements for licensure, and demonstrates to the board's satisfaction that for the 2 years preceding the application for licensure, the applicant has met ~~the~~ requirements set by the board for maintaining professional competence ~~established under 37-67-315~~."

Section 109. Section 37-68-201, MCA, is amended to read:

"37-68-201. Organization -- meetings -- rulemaking power -- seal. (1) Each July, the board shall elect from its membership a president, vice president, and secretary-treasurer.

(2) The board shall meet quarterly and at other times ~~it~~ that the board considers necessary.

(3) The board ~~may~~ SHALL:

(a) adopt rules for the administration of this chapter~~, and~~, for the licensing of electrical contractors~~,~~ and ~~for the examination and licensing of~~ FOR THE EXAMINATION OF master and journeyman electricians;

(b) adopt a seal;

(c) cause the prosecution and enjoinder of persons violating this chapter."

Section 110. Section 37-68-304, MCA, is amended to read:

"37-68-304. Master electricians -- application -- qualifications -- ~~contents of~~ CONTENTS OF examination -- fees. (1) An applicant for a master electrician's license shall furnish written evidence of being a graduate electrical engineer of an accredited college or university and of having 1 year of LEGALLY OBTAINED practical electrical experience or that the applicant is a graduate of an electrical trade school and has at least 4 years of LEGALLY OBTAINED practical experience in electrical work or has had at least 5 years of LEGALLY OBTAINED practical experience in planning, laying out, or supervising the installation and repair of wiring, apparatus, or equipment for electrical light, heat, and power.

(2) ~~Applicants~~ An applicant for a license as a master electrician shall file an application on ~~forms prescribed by the board and~~ a form furnished by the department, submit appropriate fees, and satisfactorily pass an examination prescribed by the board. ~~The board shall, not less than 30 days prior to a scheduled examination, notify each applicant that the evidence submitted with the applicant's application is sufficient to qualify to take the examination or that the evidence is insufficient and is rejected. If the application is rejected, the board shall set forth the reasons in the notice to the applicant. The place of examinations must be designated by the board, and examinations must be held at least once a year and at other times as, in the opinion of the board, the number of applicants warrants.~~

~~(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the national electric code;~~

~~(b) cost estimating for electrical installments;~~

~~(c) procurement and handling of materials needed for electrical installations and repair;~~

~~(d) reading blueprints for electrical work;~~

~~(e) drafting and layout of electrical circuits; and~~

~~(f) knowledge of practical electrical theory.~~

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~ THE BOARD SHALL, NOT LESS THAN 30 DAYS PRIOR TO A SCHEDULED EXAMINATION, NOTIFY EACH APPLICANT THAT THE EVIDENCE SUBMITTED WITH THE APPLICANT'S APPLICATION IS SUFFICIENT TO QUALIFY TO TAKE THE EXAMINATION OR THAT THE EVIDENCE IS INSUFFICIENT AND IS REJECTED. IF THE APPLICATION IS REJECTED, THE BOARD SHALL SET FORTH THE REASONS IN THE NOTICE TO THE APPLICANT. THE PLACE OF EXAMINATIONS MUST BE DESIGNATED BY THE BOARD, AND EXAMINATIONS MUST BE HELD AT LEAST ONCE A YEAR AND AT OTHER TIMES AS, IN THE OPINION OF THE BOARD, THE NUMBER OF APPLICANTS WARRANTS.

(3) THE EXAMINATION MUST CONSIST OF AT LEAST 30 QUESTIONS DESIGNED TO FAIRLY TEST THE APPLICANT'S KNOWLEDGE AND THE APPLICANT'S TECHNICAL APPLICATION IN THE FOLLOWING SUBJECTS:

(A) THE NATIONAL ELECTRIC CODE;

(B) COST ESTIMATING FOR ELECTRICAL INSTALLMENTS;

(C) PROCUREMENT AND HANDLING OF MATERIALS NEEDED FOR ELECTRICAL INSTALLATIONS AND REPAIR;

(D) READING BLUEPRINTS FOR ELECTRICAL WORK;

(E) DRAFTING AND LAYOUT OF ELECTRICAL CIRCUITS; AND

(F) KNOWLEDGE OF PRACTICAL ELECTRICAL THEORY.

(4) THE BOARD SHALL DETERMINE BY RULE THE FEES TO BE CHARGED AN APPLICANT FOR EACH EXAMINATION OR REEXAMINATION. THE FEES MUST BE COMMENSURATE WITH COSTS."

Section 111. Section 37-68-305, MCA, is amended to read:

"37-68-305. Journeyman and residential electricians -- application -- qualifications -- contents of examination. (1) An applicant for a journeyman electrician's license shall furnish written evidence of at least 4 ~~years'~~ years of apprenticeship in the electrical trade or 4 ~~years'~~ years of LEGALLY OBTAINED practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power. Applications for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~ THE EXAMINATION FOR A JOURNEYMAN'S LICENSE MUST CONSIST OF AT LEAST 30 QUESTIONS DESIGNED TO FAIRLY TEST THE APPLICANT'S KNOWLEDGE AND THE APPLICANT'S TECHNICAL APPLICATION IN THE FOLLOWING SUBJECTS:

(A) THE OHM'S LAW;

(B) THE NATIONAL ELECTRIC CODE; AND

(C) LAYOUT AND PRACTICAL INSTALLATION OF ELECTRICAL CIRCUITS.

(2) An applicant for a residential electrician's license shall furnish written evidence of at least 2 ~~years'~~ years of apprenticeship in the electrical trade or 2 ~~years'~~ years of LEGALLY OBTAINED practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power in residential construction consisting of less than five living units in a single structure. Application for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~ THE EXAMINATION FOR A RESIDENTIAL ELECTRICIAN'S LICENSE MUST CONSIST OF AT LEAST 30 QUESTIONS DESIGNED TO FAIRLY TEST THE APPLICANT'S KNOWLEDGE AND THE APPLICANT'S TECHNICAL APPLICATION IN THE FOLLOWING SUBJECTS:

(A) THE OHM'S LAW;

(B) THE NATIONAL ELECTRIC CODE; AND

(C) LAYOUT AND PRACTICAL INSTALLATION OF ELECTRICAL CIRCUITS."

SECTION 112. SECTION 37-68-307, MCA, IS AMENDED TO READ:

"37-68-307. Examination procedure -- third-party services ~~-- issuance of master, journeyman, or residential electrician's license -- expiration~~. ~~(1)~~ To ensure impartiality, the examination for either the residential, master's, or journeyman's license must be administered by the department. The department may use a third party to provide examination and grading services. The examination passing grade is 75%.

~~(2) If it is determined that the applicant has passed the examination, the department shall issue to the applicant a license that authorizes the licensee to engage in the business, trade, or calling of a residential electrician, journeyman electrician, or master electrician.~~

~~(3) Each original license expires on the renewal date established by the department by rule if it is not~~

~~more than 3 years after the date of issuance.~~"

SECTION 113. SECTION 37-68-310, MCA, IS AMENDED TO READ:

"37-68-310. ~~License renewal period -- renewal~~ Renewal of lapsed licenses. (1) ~~Licenses of residential electricians, journeyman electricians, or master electricians, unless they have been suspended or revoked by the board or unless the department changes the duration of the renewal period, must be renewed for a period of 3 years by the department on application for renewal made to the department on or before the renewal date set by department rule and on the payment of a renewal fee. If application for renewal is not made on or before the renewal date, an additional fee prescribed by board rule must be paid.~~ It is unlawful for a person who refuses or fails to pay the renewal fee to practice electrical work in this state. A person with a lapsed license may be issued a renewal license without examination if the applicant pays the original renewal fee and any delinquency fee within 1 year of the license expiration date. Subject to subsection (2), a lapsed license that is not renewed within 1 year following its expiration date may not be renewed unless the applicant passes the examination and pays the fee required for an original license.

(2) This section may not be interpreted to conflict with 37-1-138."

Section 114. Section 37-68-312, MCA, is amended to read:

"37-68-312. Electrical contractor's license -- application ~~-- issuance~~ -- fees ~~-- renewal~~. Each electrical contractor shall, on or before the date set by department rule, file with the department an application ~~in writing~~ together with the appropriate fees for each firm operated by the electrical contractor in this state ~~for renewal of the license. A license may not be issued or renewed until the applicant meets the licensure requirements and has paid to the department a license fee set by the board for each firm operated by the electrical contractor. Licenses must bear the date of issuance or renewal. A license must be renewed for a 3-year period upon payment to the department of the license fee on or before the renewal date and upon meeting the requirements set by board rule~~."

Section 115. Section 37-69-304, MCA, is amended to read:

"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by applicants for a journeyman plumber's license:

(a) a specific record of 5 ~~years'~~ years of LEGALLY OBTAINED experience in the field of plumbing of a

character satisfactory to the board. This experience requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or pay records, or by completing an apprenticeship program meeting the standards set by the department ~~of labor and industry~~ or the United States department of labor, bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of an examination ~~conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing~~ prescribed by the board CONDUCTED BY THE DEPARTMENT, SUBJECT TO 37-1-101(4), TESTING THE APPLICANT'S KNOWLEDGE OF TECHNIQUES AND METHODS EMPLOYED IN THE FIELD OF PLUMBING AND ESTABLISHING BY PRACTICAL DEMONSTRATION COMPETENCE IN THE SPECIAL SKILLS REQUIRED IN THE FIELD OF PLUMBING.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board.

~~(3) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~

~~(4) The department may use a third party to provide examination and grading services.~~"

Section 116. Section 37-69-305, MCA, is amended to read:

"37-69-305. Qualifications of applicants for master plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by an applicant for a master plumber's license:

(a) evidence of 4 ~~years'~~ years of experience as a licensed journeyman plumber in the field of plumbing, verified by time or pay records of actual plumbing experience;

(b) evidence of 3 ~~years'~~ years of experience working with a licensed master plumber or in a supervisory capacity in the field of plumbing, which may run concurrently with the requirement in subsection (1)(a); and

(c) satisfactory completion of an examination ~~for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing~~ prescribed by the board FOR MASTER PLUMBERS TESTING THE APPLICANT'S KNOWLEDGE OF THE FIELD OF PLUMBING AND DEMONSTRATING SKILL AND ABILITY IN THE FIELD OF PLUMBING.

(2) For purposes of subsection (1), ~~a year's~~ 1 year of experience is 1,500 hours or more of work in a

continuous 12-month period.

(3) A master plumber may not allow the master plumber's license to be used by any person or firm, corporation, or business other than the master plumber's own for the purpose of obtaining permits or for doing plumbing work under the license.

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.~~

~~(5) The department may use a third party to provide examination and grading services.~~"

Section 117. Section 37-69-306, MCA, is amended to read:

"37-69-306. Examination -- issuance of license. (1) An applicant for a license to work in the field of plumbing ~~shall be examined as to his qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine his skill and qualifications as a master plumber or journeyman plumber.~~

~~(2) The applicant~~ MUST BE EXAMINED AS TO THE APPLICANT'S QUALIFICATIONS BY THE DEPARTMENT, SUBJECT TO 37-1-101(4). THE DEPARTMENT SHALL EXAMINE EACH APPLICANT FOR A LICENSE TO DETERMINE THE APPLICANT'S SKILL AND QUALIFICATIONS AS A MASTER PLUMBER OR JOURNEYMAN PLUMBER.

(2) THE APPLICANT must, upon successfully passing ~~the~~ an examination prescribed by the board, ~~shall~~ be issued a license authorizing ~~him~~ the applicant to engage in the field of plumbing as a master plumber or journeyman plumber in the state of Montana.

~~(3)~~(~~2~~)(3) In the case of a firm or corporation, the examination and issuance of a license to an individual of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master plumbers but not as to journeyman plumbers. ~~No~~ An individual, firm, or corporation may not do the work of a master plumber unless licensed under this chapter.

~~(4)~~(~~3~~)(4) In addition to the temporary permits authorized in 37-1-305, the ~~board department~~ BOARD may, ~~on a case-by-case basis at the board's discretion and~~ ON A CASE-BY-CASE BASIS AT THE BOARD'S DISCRETION in accordance with criteria determined by ~~the board department rule~~ THE BOARD, renew a temporary practice permit for a person who fails the first license examination for which the person is eligible ~~but who submits a temporary practice permit renewal application to the board stating that the person intends to retake the license examination on the next available date~~."

Section 118. Section 37-69-401, MCA, is amended to read:

"37-69-401. Medical gas piping installation endorsement. (1) A medical gas piping installation endorsement entitles the holder to install pipe used solely for transporting gases used for medical purposes.

(2) To be eligible for endorsement under this section, a person must meet all requirements for endorsements established by the board by rule.

(3) A person with a valid medical gas piping installation endorsement from another state may install medical gas piping in this state.

(4) The board shall by rule establish the requirements for obtaining a medical gas piping installation endorsement. ~~Fees must be established by rule and must be commensurate with the costs of administering the medical gas piping installation endorsement program.~~"

Section 119. Section 37-72-102, MCA, is amended to read:

"37-72-102. Penalty -- injunction. (1) A person convicted of violating any provision of this chapter or the rules of the department is guilty of a misdemeanor and shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed $500, or both.

(2) The district court may enjoin any violation or threatened violation of the requirements of 37-72-101, 37-72-201, 37-72-202, ~~or~~ 37-72-301 ~~through~~, 37-72-302, 37-72-304, 37-72-305, or 37-72-307 or the rules of the department as a nuisance per se; and the department, the attorney general, or any county attorney may institute proceedings for an injunction."

Section 120. Section 37-72-202, MCA, is amended to read:

"37-72-202. General rulemaking power. The department shall adopt rules to:

(1) implement the training and experience requirements of 37-72-302;

(2) prescribe the amount of the fees provided for in 37-72-301 ~~and 37-72-303 through 37-72-306~~, 37-72-304, and 37-72-305, which must be nonrefundable, in an amount commensurate with the cost of administering this chapter, and deposited in the state special revenue fund for the use of the department;

(3) regulate the use of explosives and grant variances under the provisions of 37-72-201, except that, unless the department is making an investigation under 37-72-203(2), the department does not have the power under this chapter to make inspections into construction blasting and may not adopt rules providing for ~~such~~ inspections related to construction blasting or for inspectors to carry out ~~such~~ inspections related to construction blasting;

(4) provide for the form of the license and pocket card provided for in 37-72-307; and

(5) provide for the conduct of the business of the department under this chapter and govern ~~its~~ department proceedings under 37-72-203."

Section 121. Section 37-72-305, MCA, is amended to read:

"37-72-305. Licensure of persons licensed by other jurisdictions. Upon receipt of an application and application fee, the department shall issue a license to any person fulfilling the requirements of 37-72-301(2)(a) through (2)(d) who holds a certificate, license, or permit, issued by another state or any agency of the United States, allowing the person to supervise or engage in the practice of construction blasting if the department finds that the certificate, license, or permit was issued upon the satisfactory completion of requirements substantially equivalent to the requirements of 37-72-301 ~~through 37-72-303~~ and 37-72-302."

Section 122. Section 37-76-109, MCA, is amended to read:

"37-76-109. Registration and renewal fees. (1) An application for registration or renewal of registration must be accompanied by a fee ~~of $200~~.

(2) All fees and money received by the department must be deposited in ~~a~~ the state special revenue fund in an account for use by the department in performing the duties required by this chapter."

Section 123. Section 50-16-201, MCA, is amended to read:

"50-16-201. Definitions. As used in this part, the following definitions apply:

(1) (a) "Data" means written reports, notes, or records or oral reports or proceedings created by or at the request of a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee of a health care facility that are used exclusively in connection with quality assessment or improvement activities, including the professional training, supervision, or discipline of a medical practitioner by a health care facility.

(b) The term does not include:

(i) incident reports or occurrence reports; or

(ii) health care information that is used in whole or in part to make decisions about an individual who is the subject of the health care information.

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) (a) "Incident reports" or "occurrence reports" means a written business record of a health care facility, created in response to an untoward event, such as a patient injury, adverse outcome, or interventional error, ~~in~~

~~order to ensure~~ for the purpose of ensuring a prompt evaluation of the event.

(b) The terms do not include any subsequent evaluation of the event in response to an incident report or occurrence report by a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee.

(4) "Medical practitioner" means an individual licensed by the state of Montana to engage in the practice of medicine, osteopathy, podiatry, optometry, or a nursing specialty described in 37-8-202~~(5)~~ or licensed as a physician assistant-certified pursuant to 37-20-203."

Section 124. Section 50-74-312, MCA, is amended to read:

"50-74-312. Review of license rejection -- waiting period. (1) An applicant for a license under the provisions of this chapter whose application has been rejected may, within 45 days after the date of the rejection, set forth in writing any arguments opposing the rejection and request a review by the department. The request must be addressed to the department and must be signed by the applicant.

(2) Within 2 days after receiving the request, the department shall notify the applicant in writing that on a certain day, not less than 5 days or more than 30 days after receipt of the written request, the department shall review and evaluate the application and any arguments opposing the rejection of the license application.

(3) The applicant may appear in person at the review. At least 2 days before the day set for the review, the applicant may designate in writing to the department ~~of labor and industry~~ the name of an engineer holding a valid license of equal or higher grade than the one applied for, and the engineer may testify on behalf of the applicant at the review.

(4) After the review, if the department ~~of labor and industry~~ determines that the applicant is entitled to the license, the department shall issue the license. If the department affirms the decision to not issue the license, the applicant ~~is required to~~ may reapply to take the license examination, as provided in ~~50-74-309 and~~ 50-74-311, and may not take the examination within 45 days of the final decision to not issue the license."

Section 125. Section 80-8-207, MCA, is amended to read:

"80-8-207. Dealers. (1) ~~It is unlawful for a~~ A person ~~to~~ may not sell, offer for sale, deliver, or have delivered within the state a pesticide without first obtaining a license from the department for each calendar year or portion of a year. A separate dealer's license and fee is required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. Pesticide field personnel or salespeople employed directly out of the same location or outlet and under a licensed dealer are not required to obtain a

license. The dealer shall furnish the department with the names and addresses of ~~its~~ the dealer's field personnel and salespeople selling pesticides within the state.

(2) The application for a license must be accompanied by a fee of $45. ~~Dealers~~ A dealer applying for renewal of a license shall ~~do so~~ apply on or before March 1 of the calendar year. A dealer applying for renewal of a license after March 1 must be assessed a $25 late licensing fee.

(3) The dealer shall require the purchaser of a restricted pesticide to exhibit the purchaser's license or permit issued under authority of this chapter, or the dealer may verify, under procedures authorized by the department, the purchaser's license or permit through a department list or by electronic means before completing a sale. The department may adopt rules concerning dealer verification of licenses and permits.

(4) The department shall assess an additional annual license fee of $10 on dealers to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than $10 a year or more than $15 a year. Fees collected under this subsection must be deposited in an account in the state special revenue ~~account~~ fund pursuant to 80-8-112.

(5) Pharmacists licensed as provided for in 37-7-302 ~~and 37-7-303~~, veterinarians licensed as provided for in 37-18-302 ~~and 37-18-303~~, and certified pharmacies licensed under 37-7-321 are not required to be licensed to sell pesticides~~, provided that~~ if the certified pharmacies and veterinarians register with the department each year. However, the certified pharmacies and veterinarians ~~shall~~ must meet all other requirements concerning the commercial sale of pesticides. The department shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

NEW SECTION. **Section 126. Repealer.** Sections 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-404, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, ~~37-68-307, 37-68-310,~~ 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, and 50-76-105, MCA, are repealed.

NEW SECTION. **Section 127. Effective date.** [This act] is effective July 1, 2005.

- END -

HOUSE BILL NO. 182

INTRODUCED BY D. ROBERTS

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CONSOLIDATING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; DISTINGUISHING BETWEEN DEPARTMENT AND BOARD OR PROGRAM DUTIES REGARDING LICENSURE, EXAMINATION, AND FEES; CLARIFYING THE DETERMINATION AND DISTRIBUTION OF FEES FOR LICENSURE, EXAMINATION, AND ADMINISTRATIVE COSTS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO HANDLE CERTAIN TASKS RELATED TO BOARDS, INCLUDING MONITORING OF LICENSING BOARDS' CASH BALANCES AND HIRING SERVICES FOR BOARDS; ALLOWING FOR FEE ADJUSTMENTS; REQUIRING STANDARDIZATION OF FORMS; INCLUDING DEPARTMENT PROGRAMS UNDER CERTAIN PROVISIONS APPLICABLE TO BOARDS; SETTING UNIFORM STANDARDS FOR LICENSE RENEWALS, INCLUDING RENEWAL PERIODS; REVISING CERTAIN NOTIFICATION PERIODS; REMOVING SPECIFIC BOARD OR PROGRAM REFERENCES IF DUTIES ARE ASSIGNED TO THE DEPARTMENT OR PROVIDED GENERALLY TO ALL BOARDS; REQUIRING BOARD OF HORSERACING REVIEW OF IMPACTS; REMOVING THE REQUIREMENT TO PUBLISH AN ANNUAL LIST OF SOCIAL WORKERS AND PROFESSIONAL COUNSELORS; REMOVING CERTAIN SPECIFIED LICENSING PERIODS; REMOVING THE PUBLICATION REQUIREMENT FOR OUTFITTERS' NAMES AND ADDRESSES; REPEALING CERTAIN BOARD-SPECIFIC OR PROGRAM-SPECIFIC REFERENCES TO LICENSURE, EXAMINATIONS, AND FEES; AMENDING SECTIONS 23-3-501, 23-4-105, 23-4-201, 27-12-206, 33-30-1013, 37-1-101, 37-1-104, 37-1-105, 37-1-121, 37-1-130, 37-1-131, 37-1-134, 37-1-141, 37-1-302, 37-1-306, 37-1-307, 37-2-101, 37-3-203, 37-3-211, 37-3-301, 37-3-305, 37-3-306, 37-3-307, 37-3-309, 37-3-311, 37-3-313, 37-3-341, 37-3-342, 37-3-343, 37-3-344, 37-3-347, 37-4-301, 37-4-307, 37-4-402, 37-4-406, 37-6-304, 37-7-302, 37-7-321, 37-7-605, 37-7-606, 37-8-102, 37-8-202, 37-9-304, 37-9-305, 37-10-302, 37-10-304, 37-11-201, 37-11-304, 37-12-201, 37-12-302, 37-13-302, 37-14-306, 37-16-202, 37-16-404, 37-16-405, 37-17-302, 37-18-202, 37-18-303, 37-19-401, 37-19-702, 37-19-807, 37-20-301, 37-20-302, 37-22-201, 37-22-301, 37-22-302, 37-23-101,37-23-202, 37-23-203, 37-23-206, 37-24-202, 37-24-303, 37-24-310, 37-25-201, 37-26-201, 37-26-403, 37-27-105, 37-27-210, 37-28-104, 37-28-202, 37-29-306, 37-31-203, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, 37-34-201, 37-34-305, 37-35-103, 37-40-302, 37-42-304, 37-42-308, 37-47-101, 37-47-201, 37-47-304, 37-50-304, 37-51-204, 37-51-303, 37-51-305, 37-51-603, 37-53-104, 37-60-304, 37-66-304,

37-67-303, 37-67-321, 37-68-201, 37-68-304, 37-68-305, 37-68-312, 37-69-304, 37-69-305, 37-69-306, 37-69-401, 37-72-102, 37-72-202, 37-72-305, 37-76-109, 50-16-201, 50-74-312, AND 80-8-207, MCA; REPEALING SECTIONS 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, 37-68-307, 37-68-310, 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, AND 50-76-105, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-3-501, MCA, is amended to read:

"23-3-501. Licenses -- fees. (1) The board may issue a license to a professional or semiprofessional boxing or wrestling promoter, whether an individual or organization, for the sole purpose of conducting professional or semiprofessional matches or exhibitions.

(2) The board may issue licenses to qualified referees, managers, boxers, wrestlers, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, ~~commensurate with costs for that license,~~ as provided in 37-1-134, ~~as~~ set by the board."

Section 2. Section 23-4-105, MCA, is amended to read:

"23-4-105. Authority of board. The board shall~~, subject to 37-1-101 and 37-1-121,~~ license and regulate racing and review race meets held in this state under this chapter. All percentages withheld from amounts wagered must be deposited in the board's agency fund account. The board shall then distribute all funds collected under 23-4-202(4)(d), 23-4-204(3), and 23-4-302(3) to live race purses or for other purposes for the good of the existing horseracing industry. If the board decides to authorize new forms of racing, including new forms of

simulcast racing, not currently engaged in Montana, ~~it~~ the board shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board ~~should~~ shall consider both the economic and safety impacts on the existing racing and breeding industry."

Section 3. Section 23-4-201, MCA, is amended to read:

"23-4-201. Licenses. (1) ~~It is unlawful for a~~ A person ~~to~~ may not hold a race meet, including simulcast race meets under the parimutuel system, in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall file with the department an application ~~with the department which shall~~ that must set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet ~~shall~~ must be licensed and charged an annual fee set by the board~~, which shall~~ . The annual fee must be paid to the department and used for expenses of administering this chapter~~, subject to 37-1-101(6)~~. Each person holding a license under this chapter shall comply with this chapter and with the rules adopted and orders issued by the board.

(3) A license may not be issued to a person who has failed to pay the fees, taxes, or money required under this chapter.

(4) ~~Applications~~ An application to hold a race ~~meets shall~~ meet must be submitted to the department, and the board shall act on the ~~applications~~ application within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board and an independent racing association conducting a race ~~meets~~ meet comply with the requirements of the rules adopted by the board before granting a license.

(6) A racing association consisting of a local fair board or an association approved by a local fair board may apply for a license to hold a simulcast race meet in a simulcast facility.

(7) An unexpired license held by a person who violates this chapter or who fails to pay to the department the sums required under this chapter is subject to cancellation and revocation by the board."

Section 4. Section 27-12-206, MCA, is amended to read:

"27-12-206. Funding. (1) There is a pretrial review fund to be administered by the director for the purposes stated in this chapter. The fund and any income from it must be held in trust, deposited in an account, and invested and reinvested by the director. The fund may not become part of or revert to the general fund of this state but is subject to auditing by the legislative auditor. Money from the assessments levied under this section

must be deposited in the fund.

(2) For each fiscal year, beginning July 1, an annual assessment is levied on all chiropractic physicians. The amount of the assessment must be annually set by the director and equally assessed against all chiropractic physicians. A fund surplus at the end of a fiscal year that is not required for the administration of this chapter must be retained by the director and used to finance the administration of this chapter during the next fiscal year, in which event the director shall reduce the next annual assessment to an amount estimated to be necessary for the proper administration of this chapter during that fiscal year.

(3) The annual assessment must be paid on or before the date that the chiropractic physician's annual renewal fee under ~~37-12-307~~ 37-1-134 is due. An unpaid assessment bears a late charge fee of $25. The late charge fee is part of the annual assessment. The director has the same powers and duties in connection with the collection of and failure to pay the annual assessment as the department of labor and industry has under ~~37-12-307~~ 37-1-134 with regard to a chiropractic physician's annual license fee. However, nothing in this section may be interpreted to conflict with 37-1-138."

Section 5. Section 33-30-1013, MCA, is amended to read:

"33-30-1013. Coverage required for services provided by nurse specialists. A health service corporation shall provide, in group and individual insurance contracts, coverage for health services provided by a nurse specialist, as specifically listed in 37-8-202~~(5)~~, if health care services that nurse specialists are licensed to perform are covered by the contract."

Section 6. Section 37-1-101, MCA, is amended to read:

"37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department of labor and industry ~~may~~ shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, ~~taking~~ receiving and processing applications for licenses, issuing and ~~denying licenses granted by the boards,~~ renewing routine licenses as defined by a board, disciplining licensees, ~~registering,~~ setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing;

(2) standardize policies and procedures and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for ~~the~~ all meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board ~~or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination~~;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department;

(6) assess the costs of the department to the boards and programs on an equitable basis as determined by the department;

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's ~~licensing~~ board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(e);

(9) provide notice to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner;

(10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary; and

(11) establish policies and procedures to set fees for administrative services, as provided in 37-1-134, commensurate with the cost of the services provided. Late penalty fees may be set without being commensurate with the cost of services provided."

Section 7. Section 37-1-104, MCA, is amended to read:

"37-1-104. Standardized forms. ~~It is the responsibility of the~~ The department ~~whenever possible to~~ shall adopt standardized ~~application, license, and other~~ forms and processes to be used by the boards and department programs ~~within the department~~. The standardization is to streamline processes, expedite services, reduce costs~~,~~ and waste, and ~~the use of out-of-date forms and~~ facilitate ~~automated printing and~~ computerization."

Section 8. Section 37-1-105, MCA, is amended to read:

"37-1-105. Reporting disciplinary actions against licensees. The department has the authority and shall require that all ~~licensing~~ boards and department programs ~~within the department~~ require ~~all applicants~~ each applicant for licensure or renewal to report any legal or disciplinary ~~actions~~ action against ~~them~~ the applicant that ~~relate~~ relates to the propriety of the ~~applicants'~~ applicant's practice of or ~~their~~ fitness to practice the profession or occupation for which ~~they seek~~ the applicant seeks licensure. Failure to furnish the required information, except

pursuant to 37-1-138, or the filing of false information is grounds for denial or revocation of a license."

Section 9. Section 37-1-121, MCA, is amended to read:

"37-1-121. Duties of commissioner. In addition to the powers and duties under 2-15-112 and 2-15-121, the commissioner of labor and industry shall:

(1) at the request of a party, appoint an impartial hearings examiner to conduct hearings ~~before each board within the department~~ whenever any board or department program holds a contested case hearing. The hearings examiner shall conduct hearings in a proper and legal manner.

(2) establish the qualifications of and hire all personnel to perform the administrative, legal, and clerical functions of the department for the boards. Boards within the department do not have authority to establish the qualifications of, hire, or terminate personnel. The department may consult with the boards regarding recommendations for qualifications for personnel.

(3) approve all contracts and expenditures by boards within the department. A board within the department may not enter into a contract or expend funds without the approval of the commissioner."

Section 10. Section 37-1-130, MCA, is amended to read:

"37-1-130. Definition. As used in this part, ~~"board" means each board in this title~~ the following definitions apply:

(1) "Administrative fee" means a fee established by the department to cover the cost of administrative services as provided for in 37-1-134.

(2) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is ~~allocated~~ administratively attached to the department ~~of labor and industry~~ as provided in 2-15-121.

(3) "Board fee" means:

(a) a fee established by the board to cover program area costs as provided in 37-1-134; and

(b) any other legislatively prescribed fees specific to boards and department programs.

(4) "Department" means the department of labor and industry established in 2-15-1701.

(5) "Department program" means a program administered by the department pursuant to this title and not affiliated with a board.

(6) "Expired license" means a license that is not reactivated within the period of 45 days to 2 years after the renewal date for the license.

(7) "Lapsed license" means a license that is not renewed by the renewal date and that may be reactivated within the first 45-day period after the renewal date for the license.

(8) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation.

(9) "Terminated license" means a license that is not renewed or reactivated within 2 years of the license lapsing."

Section 11. Section 37-1-131, MCA, is amended to read:

"37-1-131. Duties of boards -- quorum required. ~~Each~~ A quorum of each board within the department shall:

(1) set and enforce standards and rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within ~~its~~ the board's jurisdiction;

(2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within ~~its~~ the board's jurisdiction. The hearings must be conducted by a ~~hearing~~ hearings examiner when required under 37-1-121~~(1)~~.

(3) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (2), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71 or 72;

(4) pay to the department ~~its~~ the board's pro rata share of the assessed costs of the department under 37-1-101(6);

(5) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available.

(6) A board, board panel, or subcommittee convened to conduct board business must have a majority of its members, which constitutes a quorum, present to conduct business.

(7) The board or the department program may:

(a) establish the qualifications of applicants to take the licensure examination;

(b) determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination;

(c) examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations; and

(d) require continuing education for licensure as provided in 37-1-306. If the board or department requires continuing education for continued licensure, the board or department may not audit or verify continuing education requirements as a precondition for renewing the license, certification, or registration. The board or department may conduct random audits of up to 20% of all licensees with renewed licenses for documentary verification of the continuing education requirement after the renewal period closes.

(8) A board may, at the board's discretion, request the applicant to make a personal appearance before the board for nonroutine license applications as defined by the board."

Section 12. Section 37-1-134, MCA, is amended to read:

"37-1-134. ~~Licensing boards to establish fees~~ Fees commensurate with costs. ~~All~~ Each ~~licensing boards~~ board allocated to the department shall set board fees ~~reasonably~~ related to the respective program area that are commensurate with costs for licensing, including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits. A board may set an examination fee that must be commensurate with costs. A board that issues endorsements and licenses specialties shall set respective fees commensurate with costs. Unless otherwise provided by law, ~~each board within~~ the department may establish standardized fees, including but not limited to fees for ~~program areas such as application, examination, renewal, reciprocity, late renewal, and continuing education~~ administrative services such as license verification, duplicate licenses, late penalty renewals, licensee lists, and other administrative service fees determined by the department as applicable to all boards and department programs. The department shall collect administrative fees on behalf of each board or department program and deposit the fees in the state special revenue fund in the appropriate account for each board or department program. ~~Board~~ Administrative service costs not related to a specific board or program area may be equitably distributed to board or program areas as determined by the ~~board~~ department. Each board and department program shall maintain records sufficient to support the fees charged for each program area."

Section 13. Section 37-1-141, MCA, is amended to read:

"37-1-141. ~~Nonrenewal of license for three years~~ License renewal -- lapse -- expiration -- termination. (1) The renewal date for a license must be set by department rule. The department shall provide notice prior to the renewal date.

(2) To renew a license, a licensee shall submit a completed renewal form, comply with all certification

and continuing education requirements, and remit renewal fees before the end of the renewal period.

(3) A licensee may reactivate a lapsed license within 45 days after the renewal date by following the process in subsection (5) and complying with all certification and educational requirements.

(4) A licensee may reactivate an expired license within 2 years after the renewal date by following the process in subsection (5) and complying with all certification and education requirements that have accrued since the license was last granted or renewed as prescribed by board or department rule.

(5) To reactivate a lapsed license or an expired license, in addition to the respective requirements in subsections (3) and (4), a licensee shall:

(a) submit the completed renewal form;

(b) pay the late penalty fee provided for in subsection (7); and

(c) pay the current renewal fee as prescribed by the department or the board.

(6) (a) A licensee who practices with a lapsed license is not considered to be practicing without a license.

(b) A licensee who practices after a license has expired is considered to be practicing without a license.

(7) The department may assess a late penalty fee for each renewal period in which a license is not renewed. The late penalty fee need not be commensurate with the costs of assessing the fee.

(8) Unless otherwise provided by statute or rule, ~~a lapsed~~ an occupational or professional license that is not renewed within ~~3~~ 2 years of the most recent renewal date automatically terminates. The terminated license may not be ~~reinstated~~ reactivated, and a new original license must be obtained ~~by passing a qualifying examination and paying the appropriate fee~~.

(9) The department or board responsible for licensing a licensee retains jurisdiction for disciplinary purposes over the licensee for a period of 2 years after the date on which the license lapsed.

(10) This section may not be interpreted to conflict with 37-1-138."

Section 14. Section 37-1-302, MCA, is amended to read:

"37-1-302. Definitions. As used in this part, the following definitions apply:

(1) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.

(2) "Complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(3) "Department" means the department of labor and industry.

(4) "Inspection" means the periodic examination of premises, equipment, or procedures or of a

practitioner by the department to determine whether the practitioner's profession or occupation is being conducted in a manner consistent with the public health, safety, and welfare.

(5) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a written complaint or other information before a board, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the board;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether a board should seek an injunction.

(6) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation~~, regardless of the specific term, such as permit, certificate, recognition, or registration, used for the permission~~.

(7) "Profession" or "occupation" means a profession or occupation regulated by a board."

Section 15. Section 37-1-306, MCA, is amended to read:

"37-1-306. Continuing education. A board or, for programs without a board, the department may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education."

Section 16. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board authority. (1) A board may:

(a) hold hearings as provided in this part;

(b) issue subpoenas requiring the attendance of witnesses or the production of documents and administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must be relevant to the complaint~~, issued by a majority vote of board members not serving on the screening panel described in subsection (1)(c),~~ and must be signed by ~~the presiding officer~~ a member of the board. Subpoenas may be enforced as provided in 2-4-104.

(c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under this part;

~~(d) compel attendance of witnesses and the production of documents. Subpoenas may be enforced as provided in 2-4-104.~~

~~(e)~~(d) establish a screening panel ~~that determines~~ to determine whether there is reasonable cause to believe that a licensee has violated a particular statute, rule, or standard justifying disciplinary proceedings. A screening panel shall specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.

~~(f)~~(e) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding ~~its~~ the board's licensees and license applicants and regarding possible unlicensed practice.

[(3) Each board shall require a license applicant to provide the applicant's social security number as a part of the application. Each board shall keep the social security number from this source confidential, except that a board may provide the number to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 17. Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which the medical practitioner maintains an office for professional practice.

(2) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans;

(b) to affect the structure or any function of the body of humans.

(3) "Drug" has the same meaning as provided in 37-7-101.

(4) "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs~~; but the~~. The term does not include a pharmacy.

(5) "Medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, podiatry, optometry, or a nursing specialty as described in 37-8-202~~(5)~~ and in the licensed practice to administer or prescribe drugs.

(6) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.

(7) "Pharmacy" has the same meaning as provided in 37-7-101.

(8) "State" means the state of Montana or any political subdivision of the state."

Section 18. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. The board may:

(1) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair, impartial, and nondiscriminatory.

(2) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(3) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter;

(4) establish a program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental or chronic physical illness;

~~(5) select an executive secretary to be hired by the department to:~~

~~(a) provide services to the board in connection with the board's duties under this chapter;~~

~~(b) assist in prosecution and matters of license discipline under this chapter; and~~

~~(c) administer the board's affairs;~~ and

~~(6)~~(5) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary."

Section 19. Section 37-3-211, MCA, is amended to read:

"37-3-211. Executive secretary. To perform ~~the~~ services ~~provided for in 37-3-203(5)~~ to the board in connection with the board's duties under this chapter, assist in prosecution and matters of license discipline, and administer the board's affairs, the department shall hire an executive secretary ~~selected by the board~~."

Section 20. Section 37-3-301, MCA, is amended to read:

"37-3-301. License required -- kinds of certificates. (1) Before being issued a license, an applicant

may not engage in the practice of medicine in this state.

(2) The department may issue four forms of certificates of licensure under the board's seal~~:~~, which include the physician's certificate, the restricted certificate, the temporary certificate, and the telemedicine certificate issued in accordance with 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349. The physician's certificate and the restricted certificate must be signed by the president, but the temporary certificate may be signed by any board member. The board shall decide which certificate to issue. These certificates must be designated as:

(a) a physician's certificate, which is subject to renewable registration in accordance with department rules;

(b) a restricted certificate;

(c) a temporary certificate, which is subject to specifications and limitations imposed by the board; and

(d) a telemedicine certificate."

Section 21. Section 37-3-305, MCA, is amended to read:

"37-3-305. Qualifications for licensure. (1) Except as provided in subsections (4) and (5), a person may not be granted a physician's license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program;

(d) has ~~had~~ submitted a completed application ~~file reviewed by a board member and, at the discretion of the board member, has made a personal appearance before the board~~; and

(e) is able to communicate, in the opinion of the board, in the English language.

(2) The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified.

(3) A person may not be granted a temporary license to practice medicine in this state unless the person:

(a) is of good moral character~~,~~ as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program; and

(d) is able, in the opinion of the board, to communicate in the English language.

(4) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or in the opinion of the board has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with the Montana family practice residency program; and

(c) is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state.

(5) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:

(a) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training that is at least the equivalent of a 1-year internship;

(b) is a resident in good standing with a program accredited by the accreditation council for graduate medical education or the American osteopathic association;

(c) in the course of an approved rotation of the person's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state;

(d) makes application to the department on ~~a~~ an approved form ~~prescribed by the board~~; and

(e) pays a fee set by the board, as provided in 37-3-308."

Section 22. Section 37-3-306, MCA, is amended to read:

"37-3-306. Physician's certificate -- examination -- reciprocity and endorsement. (1) The board may authorize the department to issue to an applicant a physician's certificate, certificate by reciprocity, or certificate by endorsement only on the basis of:

(a) passing an approved examination ~~given and graded by the department~~, subject to 37-1-101;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of examiners for osteopathic physicians and surgeons, incorporated, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by this board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was

issued were, in the judgment of the board, essentially equivalent to those of this state for granting a license to practice medicine, if under the scope of the license or certificate the applicant was authorized to practice medicine in the other state, territory, or country.

(2) ~~No~~ An applicant who applies for a license on the basis of an examination and fails the examination may not be granted a license based on credentials from another state, territory, or foreign country or on a certificate issued by the national board of medical examiners or successors, by the federation licensing examination committee or successors, or by the medical council of Canada or successors.

(3) The board may adopt reciprocity or endorsement requirements current with changes in standards in the practice of medicine.

(4) The board may, in the case of an applicant for admission by reciprocity or endorsement, require a written or oral examination of the applicant.

(5) The board may require that graduates of foreign medical schools pass an examination given by the education council for foreign medical graduates or successors.

(6) Holders of the degree of doctor of osteopathy granted in 1955 or before ~~will~~ may be certified only on the basis of taking and passing the examination given by the department, subject to 37-1-101. Holders of the degree of doctor of osteopathy granted after 1955 ~~will~~ must be certified in the same manner as provided ~~above~~ in this section for physicians."

Section 23. Section 37-3-307, MCA, is amended to read:

"37-3-307. Qualifications for licensure -- temporary certificate. (1) The board may authorize the department to issue to an applicant a temporary certificate to practice medicine on the basis of:

(a) passing an examination ~~given and graded by the department, subject to 37-1-101~~ prescribed by the board;

(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of osteopathic medical examiners or successors, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school ~~which~~ that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by the board; or

(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the

District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were essentially equivalent, in the judgment of the board, to those of this state at the time for granting a license to practice medicine; and

(d) being a graduate of an approved medical school who has completed 1 year of internship or ~~its~~ the equivalent and being of good moral character and good conduct.

(2) The board may require that graduates of foreign medical schools pass the examination given by the education council for foreign medical graduates or successors.

(3) A temporary certificate may be issued to a physician employed by a public institution who is practicing under the direction of a licensed physician. The board may authorize the department to issue a temporary certificate subject to terms of probation or other conditions or limitations set by the board or may refuse a temporary certificate to a person who has committed unprofessional conduct. The issuance of a temporary certificate does not impose any future obligation or duty on the part of the board to grant full licensure or to renew or extend the temporary certificate. The board may, in the case of an applicant for a temporary certificate, require a written, oral, or practical examination of the applicant."

Section 24. Section 37-3-309, MCA, is amended to read:

"37-3-309. Application for license. ~~(1)~~ A person desiring a license to practice medicine shall ~~make application~~ apply to the department~~, verified by oath and in a form prescribed by the board~~ on an approved form. The application must be accompanied by the license fee and documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by this chapter apart from an examination required by the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the qualifications and whether the applicant has committed unprofessional conduct. The applicant shall provide necessary authorizations for the release of records and information pertinent to the department's inquiry.

~~(2) An applicant for a license on the basis of an examination shall file the application at least 60 days prior to the announced date of the examination. If the applicant is not at the time of filing the application a graduate of but is then in attendance at an approved medical school, the applicant shall submit to the department, instead of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of the approved medical school that the applicant will receive a diploma at the end of the then-current school term. The applicant may not be granted a certificate until the applicant has filed with the department a diploma or other acceptable evidence of graduation from the approved medical school and has~~

~~complied with the requirements of subsection (1). A license may not be issued until the applicant has satisfied the board that the applicant has completed at least 1 year of an approved internship or its equivalent and has otherwise met the requirements for the issuance of a license under this chapter.~~"

Section 25. Section 37-3-311, MCA, is amended to read:

"37-3-311. Examination. ~~(1) Examinations for a license to practice medicine shall be held not less than twice each year, at a time and place specified by the board. The examination shall be conducted in the English language and shall be sufficiently comprehensive in medicine to adequately test the applicant's professional competence and ability. The examination shall be fair and impartial. Examination papers shall be identified by both the name of the applicant and a number assigned by the department. The board may require the department to use the examination prepared by the national board of medical examiners or the examination prepared by the federation licensing examination committee or successors.~~

~~(2) An applicant must meet the requirements of 37-3-305 prior to taking a scheduled examination.~~

~~(3)~~(1) An applicant who is a graduate of a foreign medical school ~~shall~~ is required to have passed an examination given by the education council for foreign medical graduates or its successor.

~~(4)~~(2) The board may in its discretion require the department to give, subject to 37-1-101, an oral or practical examination to test the applicant's qualifications for licensure and grant appropriate credit for ~~this~~ the examination.

~~(5)~~(3) The board may use other Montana physicians to assist in preparing the examination.

~~(6)~~(4) A person may not be granted a license to practice medicine if ~~he~~ the person fails to attain a passing grade as set by the board. If an applicant fails to meet the minimum grade requirements ~~in his~~ on the first examination, ~~he~~ the applicant may be reexamined not more than two additional times on each of the component parts of the examination. ~~An examination fee shall be charged for each additional examination.~~ If an applicant is prevented through no fault of ~~his own~~ the applicant's from taking a scheduled examination, ~~he~~ the applicant may, within 2 years, be examined without submitting a new application."

Section 26. Section 37-3-313, MCA, is amended to read:

"37-3-313. ~~Renewal fees -- failure to pay -- limiting~~ Limiting authority to impose renewal fees. ~~(1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine in this state shall pay to the department a renewal fee as prescribed by the board.~~

~~(2) The payments for renewal must be made prior to the expiration date of the license, as set forth in a~~

~~department rule. The department shall mail renewal notices before the renewal is due.~~

~~(3) Except as provided in 37-1-138, in case of default in the payment of the renewal fee by a person licensed to practice medicine who is actively practicing medicine in this state, the underlying license to practice medicine may be considered lapsed by the board.~~

~~(4)~~ A license or renewal fee may not be imposed on a licensee under this chapter by a municipality or any other subdivision of the state."

Section 27. Section 37-3-341, MCA, is amended to read:

"37-3-341. Legislative findings. The Montana legislature previously found, in 37-3-101, that the practice of medicine in Montana is a privilege, not a natural right, and that the regulation of the practice of medicine is necessary to ensure the health, happiness, safety, and welfare of the people of Montana. The legislature now finds that because of technological advances and changing patterns of medical practice, medicine is increasingly being practiced by electronic means across state lines. Although access to technological advances is in the public interest, the legislature also finds that regulation of the practice of medicine across state lines is necessary to protect the public against the unprofessional, improper, unauthorized, and unqualified practice of medicine. Accordingly, the legislature finds that physicians outside the boundaries of Montana who ~~enter the state~~ by electronic or other technological means ~~to~~ practice medicine for compensation on patients inside Montana are seeking the benefit and protection of the laws of Montana and are subject to the licensure and regulatory requirements provided in 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349."

Section 28. Section 37-3-342, MCA, is amended to read:

"37-3-342. Definition -- scope of practice allowed by telemedicine certificate. (1) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, "telemedicine" means the practice of medicine, as defined in 37-3-102, by a physician located outside the state who performs an evaluative or therapeutic act relating to the treatment or correction of a patient's physical or mental condition, ailment, disease, injury, or infirmity and who transmits that evaluative or therapeutic act into Montana through any means, method, device, or instrumentality under the following conditions:

(a) The information or opinion is provided for compensation or with the expectation of compensation.

(b) The physician does not limit the physician's services to an occasional case.

(c) The physician has an established or regularly used connection with the state, including but not limited to:

(i) an office or another place for the reception of a transmission from the physician;

(ii) a contractual relationship with a person or entity in Montana related to the physician's practice of medicine; or

(iii) privileges in a Montana hospital or another Montana health care facility, as defined in 50-5-101.

(2) As used in 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, telemedicine does not mean:

(a) an act or practice that is exempt from licensure under 37-3-103;

(b) an informal consultation, made without compensation or expectation of compensation, between an out-of-state physician and a physician or other health care provider located in Montana;

(c) the transfer of patient records, independent of any other medical service and without compensation;

(d) communication about a Montana patient with the patient's physician or other health care provider who practices in Montana, in lieu of direct communication with the Montana patient or the patient's legal representative;

(e) diagnosis of a medical condition by a physician located outside the state, based upon an x-ray, cardiogram, pap smear, or other specimen sent for evaluation to the physician outside the state by a health care provider in Montana; or

(f) a communication from a physician located outside Montana to a patient in Montana in collaboration with a physician or other health care provider licensed to practice medicine in Montana."

Section 29. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without certificate -- scope of practice limitations -- violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine certificate issued pursuant to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine certificate authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine certificate pursuant to 37-3-345(2).

(3) A telemedicine certificate authorizes an out-of-state physician to practice only telemedicine. A telemedicine certificate does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A physician who practices telemedicine in this state without a telemedicine certificate issued pursuant

to 37-3-301, ~~and~~ 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that certificate, in violation of the scope of practice allowed by the certificate, or without a physician's certificate of licensure issued pursuant to 37-3-301(2)(a), is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 30. Section 37-3-344, MCA, is amended to read:

"37-3-344. Application for telemedicine certificate. (1) A person desiring a telemedicine certificate shall apply to the department and verify the application by oath, in a form prescribed by the board.

(2) The application must be accompanied by:

(a) a certificate fee prescribed by board rule; and

(b) documents required by the board that establish that the applicant possesses the qualifications prescribed by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the requisite qualifications.

(3) The application must include a clear statement that the applicant consents to the jurisdiction of the state as specified in 37-3-349.

(4) The applicant shall provide to the board authorizations necessary for the release of records and other information required by the board."

Section 31. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of certificate -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine certificate if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a certificate required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) fails to pay a required fee;

(c) does not possess the qualifications or character required by this chapter; or

(d) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine certificate provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 32. Section 37-4-301, MCA, is amended to read:

"37-4-301. ~~Examination -- qualifications~~ Qualifications -- fees ~~-- certification~~. ~~(1) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. It may also include, at the board's discretion, an oral interview with the board, which may include questions pertaining to the practice of dentistry. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence to be administered at times and places approved by the board. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(2) Acceptance by the board of a written and practical examination must be conditioned on evidence that the examination is sufficiently thorough to test the fitness of the applicant to practice dentistry. The examination must include, written in the English language, questions on anatomy, histology, physiology, chemistry, pharmacology and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, orthodontics, periodontics and endodontics, and any additional subjects pertaining to dental service.~~

~~(3) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(4)~~ Applicants for licensure shall submit an application~~, which~~ that must include, when required:

~~(a)~~(1) certification of successful completion of the national board ~~written~~ examination;

~~(b)~~(2) certification of successful completion of a regional board ~~practical~~ examination;

~~(c)~~(3) three affidavits of good moral character;

~~(d)~~(4) a certificate of graduation from a board-approved dental school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(5) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(5) Applicants may not take the jurisprudence examination or the oral interview without first having completed and passed all other parts of the examination.~~

~~(6) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination upon payment of a fee commensurate with costs and set by the board.~~

~~(7) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 33. Section 37-4-307, MCA, is amended to read:

"37-4-307. ~~Renewal fee -- default~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dentist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs. Notice of the change in the amount of renewal fees must be given to each dentist registered in this state by the department.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required by the department if the renewal fee is not paid in a timely manner.~~

~~(3) (a) Except as provided in 37-1-138, in case of default in payment of the renewal fee by a licensee, the license must be forfeited by the licensee. The board shall give the licensee 30 days' notice of its proposed forfeiture action. The notice must be sent by certified letter addressed to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) If the licensee pays the renewal fee, plus a reasonable late fee set by the board, prior to the time set for forfeiture, the license may not be forfeited.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each renewal period that they were unpaid, plus a late penalty fee for each renewal period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dentistry regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dentistry since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dentist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dentist licensed under this chapter."

Section 34. Section 37-4-402, MCA, is amended to read:

"37-4-402. License -- examination. (1) The department may issue licenses for the practice of dental

hygiene to qualified applicants to be known as dental hygienists.

(2) Except as provided by rules adopted under 37-1-319, a person may not engage in the practice of dental hygiene or practice as a dental hygienist in this state until the person has passed an examination approved by the board under rules ~~it considers proper~~ adopted by the board and has been issued a license by the department.

~~(3) Applicants for licensure shall take and pass an examination in order to be licensed. The examination must consist of a written part and a practical or clinical part. The board may accept, in satisfaction of the written part, successful completion of an examination by the national board of dental examiners and, whenever the board determines necessary, successful completion of a board examination in jurisprudence. The board may accept, in satisfaction of the practical part, successful completion of an examination by a board-designated regional testing service.~~

~~(4) The board has the right to administer its own examination in lieu of acceptance of the national board written examination and a regional testing service practical examination. The board is authorized to make rules governing examination procedures.~~

~~(5)~~(3) ~~Applicants~~ An applicant for licensure shall submit an application~~, which~~ that must include, when required:

(a) certification of successful completion of the national board ~~written~~ examination;

(b) certification of successful completion of a regional board ~~practical~~ examination;

(c) two affidavits of good moral character;

(d) a certificate of graduation from a board-approved dental hygiene school; and

~~(e) an examination fee commensurate with costs and set by the board;~~

~~(f)~~(e) an application fee. ~~commensurate with costs and set by the board;~~

~~(g) a recent photograph of the applicant; and~~

~~(h) copies of all other state licenses that are held by the applicant.~~

~~(6) Applicants may not take the jurisprudence examination without first having completed and passed all other parts of the examination.~~

~~(7) Examination results will be accepted for a period of time as set by board rule. An applicant failing to pass the first examination, if otherwise qualified, may take a subsequent examination on payment of a fee commensurate with costs and set by the board.~~

~~(8) The board is authorized to adopt necessary and reasonable rules governing application procedures.~~"

Section 35. Section 37-4-406, MCA, is amended to read:

"37-4-406. ~~Renewal fee -- default -- forfeiture of license~~ Notice of name and address change -- local fees prohibited. ~~(1) Each licensed dental hygienist shall pay a renewal fee to the board. The renewal fee must be set by the board commensurate with costs.~~

~~(2) Payment of the renewal fee must be made on or before the license expiration date set by department rule, and a license renewal must be issued by the department. A reasonable late fee must be required if the renewal fee is not paid in a timely manner.~~

~~(3) Except as provided in 37-1-138, in case of default in payment of the renewal fee by any licensee, the licensee shall forfeit the license.~~

~~(a) The board shall give the licensee 30 days' notice of its proposed forfeiture action. The notice must be sent by certified mail to the last-known address of the licensee and must contain a statement of the time and place of the meeting at which the forfeiture will be considered.~~

~~(b) The payment of the renewal fee on or before the time set for forfeiture, with a reasonable late fee set by the board, excuses the default.~~

~~(c) A license forfeited for nonpayment of the renewal fee may be reinstated within 5 years of forfeiture if:~~

~~(i) renewal fees are paid for each period that they were unpaid, plus a late penalty for each period;~~

~~(ii) the applicant produces evidence, satisfactory to the board, of good standing with the dental hygiene regulatory agencies of any jurisdiction in which the applicant has engaged in the active practice of dental hygiene since the last payment of a renewal fee under this chapter; and~~

~~(iii) the applicant produces evidence, satisfactory to the board, of good character and competence.~~

~~(4)~~(1) Each dental hygienist shall give the board notice of any change in name, address, or status within ~~30~~ 10 days of the change.

~~(5) The board may, after a hearing, revoke or suspend the license of a dental hygienist for violating this chapter.~~

~~(6)~~(2) A unit of local government, including those exercising self-government powers, may not impose a license fee on a dental hygienist licensed under this chapter."

Section 36. Section 37-6-304, MCA, is amended to read:

"37-6-304. Designations on license -- recording ~~-- renewal -- display~~. (1) A license issued under this chapter is designated as a "registered podiatrist's license" or a "temporary podiatrist's license".

(2) ~~Licenses must be recorded by the~~ The department shall record licenses the same as other medical licenses.

~~(3) Licenses must be renewed on a date set by department rule.~~

~~(4) A license renewal fee set by the board must be paid on a date set by department rule.~~

~~(5) The department shall mail renewal notices prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~"

Section 37. Section 37-7-302, MCA, is amended to read:

"37-7-302. ~~Examination -- qualifications -- fees -- reciprocity~~ Qualifications -- display of license. ~~(1) The department shall give reasonable notice of examinations by mail to known applicants. The department shall record the names of persons examined, together with the grounds on which the right of each to examination was claimed, and also the names of persons registered by examination or otherwise.~~

~~(2) The fee for an examination must be set by the board at a figure commensurate with costs. The fee may in the discretion of the board be returned to applicants not taking the examination.~~

~~(3)~~(1) To be entitled to examination as a pharmacist, the applicant must be of good moral character and must have graduated and received the first professional undergraduate degree from the school of pharmacy of the university of Montana-Missoula or ~~from~~ have received an accredited pharmacy degree ~~program~~ that has been approved by the board. However, an applicant may not receive a registered pharmacist's license until the applicant has complied with the internship requirements established by the board.

~~(4)~~(2) Each person licensed and registered under this chapter must receive from the department an appropriate ~~certificate~~ license ~~attesting the fact, which~~. The license must be conspicuously displayed at all times in the place of business."

Section 38. Section 37-7-321, MCA, is amended to read:

"37-7-321. Certified pharmacy license -- display. ~~(1)~~ The board shall provide for the original certification and renewal by the board of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board, ~~and~~ on application on a prescribed form ~~prescribed by the board~~, and on the payment of an original certification fee prescribed by the board, the board shall issue a license to a pharmacy as a certified pharmacy. However, the license may be granted only to pharmacies operated by registered pharmacists qualified under this chapter. ~~The renewal fee for a pharmacy must be set by the board. Any default~~

~~in the payment of the renewal fee after the date the fee is due increases the renewal fee as prescribed by the board.~~ The license must be displayed in a conspicuous place in the pharmacy for which it is issued ~~and expires on the date set by board rule~~. ~~It is unlawful for a~~ A person ~~to~~ may not ~~conduct~~ operate a pharmacy, use the word "pharmacy" to identify the business, or use the word "pharmacy" in advertising unless a license has been issued and is in effect.

~~(2) The board may impose discipline or deny or refuse to renew a pharmacy license for reasons specified in and subject to conditions specified in Title 37, chapter 1.~~"

Section 39. Section 37-7-605, MCA, is amended to read:

"37-7-605. Out-of-state wholesale drug distributor licensing requirements. (1) ~~It is unlawful for an~~ An out-of-state wholesale drug distributor ~~to~~ may not conduct business in this state without first obtaining a license from the board and paying the license fee established by the board.

(2) Application for a license under this section must be made on ~~a~~ an approved form ~~furnished by the board~~.

(3) The issuance of a license may not affect tax liability imposed by the department of revenue on any out-of-state wholesale drug distributor.

(4) A person acting as principal or agent for an out-of-state wholesale drug distributor may not sell or distribute drugs in this state unless the distributor has obtained a license."

Section 40. Section 37-7-606, MCA, is amended to read:

"37-7-606. ~~Issuance of licenses~~ Licenses. The license for wholesale drug distributors is effective during the period specified by department rule. ~~An application for renewal of a license must be mailed to each licensee at least 30 days prior to the renewal date, and if the renewal application and the fee are not mailed by the renewal date, the license is void upon its expiration date.~~"

Section 41. Section 37-8-102, MCA, is amended to read:

"37-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202~~(5)(a)~~.

(2) "Board" means the board of nursing provided for in 2-15-1734.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Medication aide" means a person who in an assisted living facility uses standardized procedures in the administration of drugs, as defined in 37-7-101, ~~in an assisted living facility~~ that are prescribed by a physician, an advanced practice registered nurse with prescriptive authority, a dentist, an osteopath, or a podiatrist authorized by state law to prescribe drugs.

(5) "Nursing education program" means any board-approved school that prepares graduates for initial licensure under this chapter. Nursing education programs for:

(a) professional nursing may be a department, school, division, or other administrative unit in a junior college, college, or university;

(b) practical nursing may be a department, school, division, or other administrative unit in a vocational-technical institution or junior college.

(6) "Practice of nursing" embraces the practice of practical nursing and the practice of professional nursing.

(7) (a) "Practice of practical nursing" means the performance of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. ~~Practical~~ The practice of practical nursing ~~practice~~ uses standardized procedures in the observation and care of the ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the administration of medications and treatments prescribed by a physician, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

(b) These services may include a charge-nurse capacity in a long-term care facility that provides skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a registered nurse.

(8) "Practice of professional nursing" means the performance of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention, casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the

administration of medications and treatments prescribed by physicians, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (8):

(a) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;

(b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

Section 42. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties. (1) The board shall:

(a) meet annually and ~~shall~~ elect from among the ~~nine~~ members a president and a secretary~~. The board shall~~;

(b) hold other meetings when necessary to transact its business~~. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board.~~

~~(2) The board may make rules necessary to administer this chapter. The board shall~~;

(c) prescribe standards for schools preparing persons for registration and licensure under this chapter~~. It shall~~;

(d) provide for surveys of schools at times ~~it~~ the board considers necessary~~. It shall~~;

(e) approve programs that meet the requirements of this chapter and of the board~~. The department shall, subject to 37-1-101, examine and issue to and renew licenses of qualified applicants. The board shall~~;

(f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list~~. It shall~~;

(g) cause the prosecution of persons violating this chapter ~~and~~. The board may incur necessary expenses for prosecutions.

~~(3) The board may adopt and the department shall publish forms for use by applicants and others, including license, certificate, and identity forms and other appropriate forms and publications convenient for the proper administration of this chapter. The board may fix reasonable fees for incidental services, within the subject matter delegated by this chapter.~~

(h) adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be

granted.

(i) establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide for assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

~~(4)~~(2) The board may:

(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses~~.~~;

~~(5) (a) The board may~~

(b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or ~~its~~ the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

~~(b) The board shall adopt rules regarding authorization for prescriptive authority of nurse specialists. If considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.~~

~~(6) The board may~~

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

~~(7) The board shall establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the license fee provided for in 37-8-431 commensurate with the cost of the program.~~

~~(8) The board may~~

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons~~.~~;

(e) adopt rules necessary to administer this chapter; and

~~(9)~~ (f) ~~The board may~~ fund additional staff, hired by the department, to administer the provisions of this chapter."

Section 43. Section 37-9-304, MCA, is amended to read:

"37-9-304. Fees. (1) Each person who applies for licensure~~, whether by waiver, examination, or reciprocation,~~ shall pay a fee prescribed by the board at the time of application.

(2) Each person licensed as a nursing home administrator shall pay a license fee in an amount fixed by the board. ~~A license expires on a date set by department rule and must be renewed upon timely payment of the license fee.~~

~~(3) The fee for issuing a duplicate license must be fixed by the board.~~"

Section 44. Section 37-9-305, MCA, is amended to read:

"37-9-305. ~~Renewal of registration and license~~ License -- grounds for discipline. ~~Each holder of a nursing home administrator's registration and license shall renew it by payment of the required fee for the next subsequent period prior to the expiration date of the currently valid registration and license, except as may be otherwise provided in 37-1-138. Renewals of registrations or licenses~~ A license must be granted as a matter of course. However, if the board finds, after notice and hearing, that the applicant has acted or failed to act in ~~a~~ ~~manner or under circumstances that would constitute grounds for discipline, it may not issue the renewal~~ accordance with this chapter, the board may find grounds for discipline."

Section 45. Section 37-10-302, MCA, is amended to read:

"37-10-302. ~~Examination -- qualifications~~ Qualifications -- application ~~-- issuance of certificate~~. (1) The board shall adopt rules relative to and governing the qualifications of applicants for certificates of registration as optometrists. ~~If the applicant does not meet the requirements of the rules, the applicant is not eligible to take an examination to practice optometry in this state. If the applicant meets the requirements of the rules, the applicant must pass an examination given by the national board of examiners in optometry on behalf of the department, subject to 37-1-101. Examinations must be practical in character and designed to ascertain the applicant's fitness to practice the profession of optometry and must be conducted in the English language. The department shall publish and distribute the examination requirements for a certificate to practice optometry in this state. The board may accept the grades an applicant has received in the written examinations given by~~

~~the national board of examiners in optometry.~~

(2) A person is not eligible to receive a certificate of registration unless that person is 18 years of age or older and of good moral character.

(3) A person is not eligible to receive a certificate of registration unless that person has certificates of graduation from an accredited high school and from a school of optometry in which the practice and science of optometry is taught in a course of study covering 8 semesters or 4 years of actual attendance and that is accredited by the international association of boards of examiners in optometry.

(4) A person desiring a certificate of registration shall file ~~an~~ a completed application~~, in the manner prescribed by the board,~~ on a form provided by the department and pay a fee prescribed by the board.

~~(5) A person who successfully passes the examination administered by the national board of examiners in optometry and who has met the requirements for qualification as an optometrist must be registered in a register kept by the department and, on the payment of a fee prescribed by the board, must receive a certificate of registration signed by the members of the board.~~"

Section 46. Section 37-10-304, MCA, is amended to read:

"37-10-304. Course in use of diagnostic and therapeutic drugs required. (1) (a) In addition to the requirements of 37-10-302, each person desiring to commence the practice of optometry shall satisfactorily complete a course prescribed by the board of medical examiners with consultation and approval by the board of optometrists with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions.

(b) A person presently licensed to practice optometry who wishes to employ diagnostic agents ~~must~~ shall satisfactorily complete a course referred to in subsection (1)(a) and ~~must~~ shall pass an examination ~~as provided in subsection (1)(d)~~.

(c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course must also be approved by the board.~~

~~(d) The board shall provide for an examination in competency in the use of diagnostic drugs and shall issue a certificate to those applicants who pass the examination.~~

(2) (a) Each person desiring to ~~commence the~~ practice ~~of~~ optometry shall:

(i) pass an examination, of the ~~international~~ association of regulatory boards ~~of examiners in~~ of

optometry, on the diagnosis, treatment, and management of ocular disease; or

(ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular diseases. The course and examination must be conducted by an institution accredited by a regional or professional accreditation organization ~~which~~ that is recognized or approved by the national commission on accrediting or the United States commissioner of education. ~~The course and examination must also be approved by the board.~~

(b) A person presently licensed to practice optometry who wishes to employ therapeutic pharmaceutical agents must meet the requirements of subsection (2)(a).

~~(c) The board shall:~~

~~(i) provide for an examination in competency in the diagnosis, treatment, and management of therapeutic pharmaceutical agents; and~~

~~(ii) issue a certificate to an applicant who passes the examination.~~"

Section 47. Section 37-11-201, MCA, is amended to read:

"37-11-201. General powers -- rulemaking ~~power -- records~~. ~~(1)~~ The board may:

~~(a)~~(1) adopt rules to ~~carry~~ implement this chapter ~~into effect~~;

~~(b) grant, suspend, and revoke licenses;~~

~~(c)~~(2) issue subpoenas requiring the attendance of witnesses or the production of books and papers; and

~~(d)~~(3) take any other disciplinary action necessary to protect the public.

~~(2) The board shall:~~

~~(a) examine applicants for licenses at reasonable places and times determined by the board;~~

~~(b) review the qualifications of applicants who are approved for examination for licensure;~~

~~(c) conduct written or computerized examinations that measure the qualifications of individual applicants along with any oral or practical examinations when determined by the board to be appropriate; and~~

~~(d) adopt rules to establish continuing education requirements of at least 20 hours biennially for license renewal for physical therapists and assistants, subject to the provisions of 37-1-138.~~

~~(3) The department shall keep a record of the board's proceedings under this chapter and a register of persons licensed under it. The register must show the name of every licensed physical therapist and licensed assistant, the therapist's or assistant's last-known place of business and last-known place of residence, and the date of issue and the number of every license and certificate issued to a licensed physical therapist or licensed~~

~~assistant.~~

~~(4) The department shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail, upon request, a copy of that list to the superintendent of every known hospital and every person licensed to practice medicine and surgery in the state. An interested person in the state is entitled to obtain a copy of the list on application to the department and payment of an amount not in excess of the cost of the list.~~

~~(5) The department may change addresses and surnames on the licensee's records only on the specific written request by the individual licensee.~~"

Section 48. Section 37-11-304, MCA, is amended to read:

"37-11-304. Application for examination ~~-- fee~~. ~~(1)~~ A person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to the department ~~in writing,~~ on a form furnished by the department. The person shall~~:~~

~~(a)~~ provide evidence ~~under oath~~, satisfactory to the board, of having the qualifications preliminary to the examination required by 37-11-303~~; and~~

~~(b) pay to the department at the time of filing the application a fee established by the board by rule. The fee must be commensurate with the cost of the examination and its administration and must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).~~

~~(2) Anyone failing to pass the required examination on the first attempt is entitled to take a second examination and, if the second examination is failed, to take a third examination. A person who fails the third examination is required to successfully complete additional education as required by the board before retaking the examination~~."

Section 49. Section 37-12-201, MCA, is amended to read:

"37-12-201. Organization of board ~~-- meetings~~ -- powers and duties. ~~(1)~~ The board shall:

(1) elect annually a president, vice president, and secretary-treasurer from its membership~~.~~;

~~(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates.~~

~~(3) The board shall:~~

~~(a)~~(2) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

~~(b) adopt a seal that must be affixed to licenses issued;~~

~~(c)~~(3) make a schedule of minimum educational requirements~~, which~~ that are without prejudice, partiality, or discrimination~~,~~ as to the different schools of chiropractic;

~~(d)~~(4) adopt rules necessary for the implementation, administration, continuation, and enforcement of this chapter. The rules must address but are not limited to license applications, ~~form and~~ the display of ~~license~~ licenses, ~~license examination format, criteria for and grading of examinations, disciplinary standards for licensees,~~ and the registration of interns and preceptors.

~~(e)~~(5) make determinations of the qualifications of applicants under this chapter; and

~~(f) administer the examination for licensure under this chapter;~~

~~(g) establish and collect fees, fines, and charges as provided in this chapter;~~

~~(h) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and~~

~~(i)~~(6) certify that a chiropractor who meets the standards that the board by rule adopts is a qualified evaluator for purposes of 39-71-711.

~~(4) The department shall keep a record of the proceedings of the board, which must at all times be open to public inspection.~~"

Section 50. Section 37-12-302, MCA, is amended to read:

"37-12-302. Applications -- qualifications -- fees. (1) A person wishing to practice chiropractic in this state shall ~~make application~~ apply to the department~~,~~ on ~~the~~ a department form ~~and in the manner prescribed by the board~~. Each applicant must be a graduate of ~~or expect to graduate within 90 days prior to the next licensing examination administered by the board from~~ a college of chiropractic approved by the board~~, in which the applicant has attended a course of study of 4 school years of not less than 9 months each~~. The applicant shall present evidence showing proof of a bachelor's degree from an accredited college or university. ~~Application must be made in writing, must be sworn to by an officer authorized to administer oaths, and must recite the history of applicant's educational qualifications, how long the applicant has studied chiropractic, of what school or college the applicant is a graduate, and the length of time the applicant has been engaged in practice.~~ The application must be accompanied with copies of diplomas and certificates and satisfactory evidence of good character and reputation.

(2) The applicant shall pay to the department a license fee prescribed by the board. ~~A fee must also be paid for a subsequent examination and application.~~

(3) A person who is licensed in another state or who previously graduated from or was enrolled in a

chiropractic college accredited by the council on chiropractic education on or before October 1, 1995, is exempt from the bachelor's degree requirement."

Section 51. Section 37-13-302, MCA, is amended to read:

"37-13-302. Application for licensure -- fee -- qualifications. (1) Each person desiring to practice acupuncture in this state shall ~~make application~~ apply to the board for licensure ~~with the secretary of the board, upon the forms and in the manner prescribed by the board~~. A fee prescribed by the board ~~shall~~ must accompany the application.

(2) ~~A person making application~~ An applicant shall furnish to the board evidence that ~~he~~ the applicant is:

(a) at least 18 years of age;

(b) of good moral character~~,~~ as determined by the board;

(c) a graduate of ~~an approved~~ a school of acupuncture that is approved by the national accreditation commission for schools and colleges of acupuncture and oriental medicine and offers a course of at least 1,000 hours of entry-level training in recognized branches of acupuncture or an equivalent curriculum approved by the board; and

(d) has passed an examination ~~prepared and administered by the board or an examination~~ prepared and administered by the national commission for the certification of acupuncturists or its successor."

Section 52. Section 37-14-306, MCA, is amended to read:

"37-14-306. Permits. (1) The board may issue a permit to an applicant not qualifying for the issuance of a license under the provisions of this chapter but who has demonstrated~~,~~ to the satisfaction of the board~~,~~ the capability of performing high-quality x-ray procedures without endangering public health and safety. An applicant ~~must be required to~~ shall demonstrate this capability by completion of formal classroom training that meets the standards established by rule and by means of examination. Permits issued under provisions of ~~this section and~~ 37-14-305 ~~shall~~ and this section must specify x-ray procedures, defined and established by rule, that may be performed by the holder. Permits ~~shall be~~ are valid for a period not to exceed 12 months but may be renewed under the provisions established by rule.

~~(2) Examinations for the issuance of a permit must include a written portion and may also include practical and oral portions as established by the board. The board shall provide applicants for permits the opportunity for examination at intervals not to exceed 6 months. A nonrefundable examination fee, established~~

~~by the board, must be submitted prior to examination for a permit. An applicant failing the examination must be charged a nonrefundable examination fee for any subsequent examination. An applicant failing any subsequent examination shall meet any additional eligibility requirements established by rule for reexamination.~~

~~(3)~~(2) ~~Applicants~~ An applicant meeting minimum requirements for licensure ~~shall~~ must be issued a temporary permit to work as a radiologic technologist. This temporary permit ~~shall expire~~ expires 15 days after the date of first opportunity for examination.

~~(4)~~(3) The board shall issue temporary permits to unlicensed persons to perform x-ray procedures when adequate evidence is provided to the board that ~~such~~ a temporary permit is necessary because of a regional hardship or emergency condition and that ~~such person~~ the prospective recipient of a temporary permit is capable of performing x-ray procedures without endangering public health and safety. Temporary permits may not exceed 12 months in duration but may be renewed by reestablishing~~,~~ to the board's satisfaction~~,~~ evidence of continued regional hardship or emergency conditions. The required adequate evidence of regional hardship, emergency conditions, and capability to perform x-ray procedures without endangering public health and safety must be established by rule.

~~(5)~~(4) Each applicant for a permit must:

(a) be of good moral character;

(b) be at least 18 years of age; and

(c) not be addicted to intemperate use of alcohol or narcotic drugs."

Section 53. Section 37-16-202, MCA, is amended to read:

"37-16-202. Powers and duties. The powers and duties of the board are to:

(1) license persons who apply and are qualified to practice the fitting of hearing aids;

(2) establish a procedure to act as a grievance board to initiate or receive, investigate, and mediate complaints from any source concerning the activities of persons licensed under this chapter or their agents, whether licensed or not;

~~(3) suspend or revoke licenses under this chapter;~~

~~(4) designate the time and place for examining applicants for license and supervise and administer the examination;~~

~~(5)~~(3) adopt rules necessary to carry out this chapter;

~~(6)~~(4) require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons who practice or engage in the business of fitting or selling hearing aids;

~~(7) prepare examinations required by the chapter;~~

~~(8)~~(5) initiate legal action to enjoin from operation a person engaged in the sale, dispensing, or fitting of hearing aids in this state that is not licensed under this chapter;

~~(9)~~(6) adopt rules consistent with the provisions of 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411. Rules adopted by the board may include but are not limited to rules defining the term "related devices" and other rules necessary to implement 37-16-301, 37-16-303, 37-16-304, 37-16-402, ~~37-16-403,~~ 37-16-405, ~~37-16-407,~~ 37-16-408, and 37-16-411.

~~(10)~~(7) establish and adopt minimum requirements for the form of bills of sale and receipts."

Section 54. Section 37-16-404, MCA, is amended to read:

"37-16-404. Examinations -- subject areas. ~~The examinations provided in 37-16-403~~ An examination must consist of a test of knowledge and practical tests of proficiency, when they apply, in the following areas as they pertain to the fitting of hearing aids:

(1) acoustics:

(a) general principles;

(b) the decibel;

(c) hearing and speech;

(2) the human ear:

(a) external;

(b) middle;

(c) inner;

(3) the hearing process;

(4) disorders of hearing:

(a) conductive;

(b) sensorineural;

(c) central;

(d) psychogenic;

(5) audiometry:

(a) pure tone;

(b) theory;

(c) procedures;

(d) speech;

(6) the hearing analysis:

(a) audiogram;

(b) auditory area;

(7) hearing aids:

(a) history;

(b) characteristics;

(c) components;

(8) practical use of the otoscope:

(a) earmold;

(b) impression;

(9) fittings:

(a) hearing aid;

(b) earmold;

(10) delivery and checkup; or

(11) any change considered necessary by the board."

Section 55. Section 37-16-405, MCA, is amended to read:

"37-16-405. Trainee license. (1) An applicant who fulfills the requirements of 37-16-402 and who has not previously applied to take ~~the~~ a practical examination ~~under 37-16-403~~ may apply to the board for a trainee license.

(2) On receiving an application under subsection (1), accompanied by a fee fixed by the board and ~~commensurate with the cost of administering the license and related functions of the board and~~ verification that the applicant has passed the written portion of the examination with a passing score as determined by board rule, the board shall issue a trainee license that entitles the applicant to engage in a 180-day training period during which the applicant:

(a) is required to pass the practical examination administered by the board before being issued a hearing aid dispenser's license; and

(b) shall work under the direct supervision of the sponsoring licensed hearing aid dispenser. During this time the applicant may do the testing necessary for proper selection and fitting of hearing aids and related devices and make necessary impressions. However, the delivery and final fitting of the hearing aid and related devices

must be made by the trainee and the supervisor.

(3) The training period must consist of a continuous 180-day term. Any break in training requires application for another trainee license under rules that the board may prescribe.

(4) A trainee license may not be issued unless the board has on file an unrevoked statement from a qualified licensed hearing aid dispenser accepting responsibility for the trainee. Every licensed hearing aid dispenser supervising a trainee license holder shall submit a report every 90 days of the trainee's activities and training assignments, on forms furnished by the board. The supervisor is responsible for all hearing aid fittings of the trainee. A supervisor may terminate any responsibilities to the trainee by mailing by certified mail written notice to the board and the trainee.

(5) ~~(a)~~ If a person who holds a trainee license takes and fails to pass the practical examination during the training period, the board may authorize the department to renew the trainee license for a period of 180 days, during which the provisions of subsection (2)(b) apply. ~~In no event may more~~ More than one renewal ~~be~~ is not permitted.

~~(b) The fee for renewal must be set by the board commensurate with the cost of administering the license and related functions of the board.~~

(6) A person licensed as an audiologist under the provisions of Title 37, chapter 15, or a person practicing pursuant to 37-1-305 is exempt from the 180-day training period but is required to pass the examinations prescribed in this chapter.

(7) A licensed hearing aid dispenser who sponsors a trainee is directly responsible and accountable under the disciplinary authority of the board for the conduct of the trainee as if the conduct were the licensee's own.

(8) For the purposes of this section, "direct supervision" means the direct and regular observation and instruction of a trainee by a licensed hearing aid dispenser who is available at the same location for prompt consultation and treatment."

Section 56. Section 37-17-302, MCA, is amended to read:

"37-17-302. ~~Application -- qualifications~~ Qualifications. ~~(1) Application for examination for licensure as a psychologist must be made on forms prescribed by the board.~~

~~(2)~~ The board shall license as a psychologist any person who pays the prescribed fee, passes the prescribed examination, and submits evidence ~~by oath~~ that the person:

~~(a)~~(1) is 18 years of age or older;

~~(b)~~(2) is of good moral character;

~~(c) (i)~~(3) (a) has received a doctoral degree in clinical psychology from an accredited college or university having an appropriate graduate program approved by the American psychological association;

~~(ii)~~(b) has received a doctoral degree in psychology from an accredited college or university not approved by the American psychological association and has successfully completed a formal graduate retraining program in clinical psychology approved by the American psychological association; or

~~(iii)~~(c) has received a doctoral degree in psychology from an accredited college or university and has completed a course of studies that meets minimum standards specified in rules by the board; and

~~(d)~~(4) has completed at the time of application a minimum of 2 years of supervised experience in the practice of psychology. One year of this experience must be postdoctoral but may not include more than 6 months of supervised research, teaching, or a combination of both."

Section 57. Section 37-18-202, MCA, is amended to read:

"37-18-202. ~~Powers of board and department -- examinations~~ Rulemaking. ~~(1)~~ The board may adopt rules ~~and orders~~ necessary ~~for the performance of its duties, including but not limited to:~~

~~(a) prescribing of forms for application for examination and license;~~

~~(b) preparation of examinations; and~~

~~(c) clarifying the use of support personnel and the provision of emergency services.~~

~~(2) The department shall, subject to 37-1-101, supervise the examination of applicants for license to practice veterinary medicine, obtain the services of professional examination agencies instead of its own preparation of examinations, and grant and revoke licenses~~ to carry out the purposes of this chapter."

Section 58. Section 37-18-303, MCA, is amended to read:

"37-18-303. Examination. ~~(1)~~ Subject to 37-1-101, the board shall, by means of examination as prescribed by the board, ascertain the professional qualifications for license of applicants under this part. The department shall issue a license to applicants who are found to be, in the judgment of the board, competent to practice. ~~A license may not be issued to a person who is not found by the examination or investigation to be competent and qualified.~~

~~(2) Examinations must be held as determined necessary by the board, but not less frequently than once each year at a time and place specified by the board. The board may employ, cooperate with, or contract with any organization or consultant in the preparation, administration, and grading of an examination, but the board~~

~~shall retain sole discretion and responsibility for determining which applicants have successfully passed an examination.~~

~~(3) The department shall consecutively number applications received, note on each the disposition made of it, and preserve the applications for reference. The board shall also number consecutively licenses issued.~~

~~(4) An applicant is required to achieve a passing grade, as determined by the board by rule, in order to obtain a license. An applicant who has failed an examination may apply to be reexamined at a subsequent examination and shall pay another application fee commensurate with the costs of the examinations as set by the board and shall take another complete examination in all subjects.~~"

Section 59. Section 37-19-401, MCA, is amended to read:

"37-19-401. License required -- display of license ~~-- renewal -- penalty for late renewal~~. ~~(1)~~ An operating mortuary must be licensed by the board. The license must be displayed in a conspicuous place.

~~(2) A mortuary license expires on the date set by department rule and may be renewed upon payment of a fee set by the board.~~

~~(3) The board may set a penalty for late renewal of a mortuary license.~~"

Section 60. Section 37-19-702, MCA, is amended to read:

"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal. (1) A person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the cremation of human remains and that conducts cremations must be licensed by the board~~, beginning July 1, 1993~~. The license must be displayed in a conspicuous place in the crematory facility.

(2) A crematory license expires on the date set by department rule and may be renewed upon payment of a fee set by the board~~, which includes~~. The fee must include the cost of annual inspection. If a crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection of both a mortuary facility under 37-19-403 and a crematory facility.

~~(3) The board may set a penalty fee for late renewal of a license.~~

~~(4)~~(3) A person in charge of a licensed crematory facility must be licensed as a crematory operator by the board. A person employed by a licensed crematory facility must be licensed as a crematory technician by the board. The license must be displayed in a conspicuous place in the crematory facility.

~~(5)~~(4) Crematory operator and crematory technician licenses expire on the date set by department rule

and may be renewed upon payment of a fee set by the board. On-the-job training must be provided to a crematory technician at the time of employment."

Section 61. Section 37-19-807, MCA, is amended to read:

"37-19-807. Powers and duties of board. The board is charged with administering this part. The board may:

(1) conduct reasonable periodic, special, or other examinations of a cemetery or cemetery company, including but not limited to an examination of the physical condition or appearance of the cemetery, an audit of the financial condition of the cemetery company and any trust funds maintained by the cemetery company, and any other examinations the board considers necessary or appropriate in the public interest. The board may also order examinations in response to public complaints. The examinations must be made by members or representatives of the board that may include a certified or registered public accountant or any other person designated by the board.

(2) issue or amend permits to operate a cemetery in accordance with the provisions of this part;

(3) adopt rules ~~and forms~~ to enforce the provisions of this part;

(4) require a cemetery company to observe minimum accounting principles and practices and to keep books and records in accordance with the principles and practices for ~~the~~ a period ~~of time~~ that the board may by rule prescribe; and

(5) require a cemetery company to provide additional contributions to the perpetual care and maintenance fund of the cemetery as provided for in this part, including but not limited to contributions not to exceed $1,000 whenever a cemetery company fails to properly care for, maintain, or preserve a cemetery."

Section 62. Section 37-20-301, MCA, is amended to read:

"37-20-301. Utilization plan required -- contents -- approval. (1) A physician, office, firm, state institution, or professional service corporation may not employ or make use of the services of a physician assistant-certified in the practice of medicine, as defined in 37-3-102, and a physician assistant-certified may not be employed or practice as a physician assistant-certified unless the physician assistant-certified:

(a) is supervised by a licensed physician;

(b) is licensed by the Montana state board of medical examiners; and

(c) has received board approval of a physician assistant-certified utilization plan.

(2) A physician assistant-certified utilization plan must set forth in detail the following information:

(a) the name and qualifications of the supervising physician, as provided in 37-20-101, and the name and license number of the physician assistant-certified;

(b) the nature and location of the physician's medical practice;

(c) the scope of practice of the physician assistant-certified and the locations where the physician assistant-certified will practice;

(d) the name and qualifications of a second physician meeting the requirements of 37-20-101 to act as an alternate supervising physician in the absence of the primary supervising physician;

(e) necessary guidelines describing the intended availability of the supervising or alternate physician for consultation by the physician assistant-certified; and

(f) other information the board may consider necessary.

(3) The board shall approve the utilization plan if ~~it~~ the board finds that the practice of the physician assistant-certified is:

(a) assigned by the supervising physician;

(b) within the scope of the training, knowledge, experience, and practice of the supervisory physician; and

(c) within the scope of the training, knowledge, education, and experience of the physician assistant-certified.

(4) A supervising physician and a physician assistant-certified may submit a new or additional utilization plan to the board for approval without reestablishing the criteria set out in 37-20-402, so long as the information requirements of subsection (2) have been met and the appropriate fee provided for in 37-20-302~~(1)~~ has been paid.

(5) A utilization plan may provide that a physician assistant-certified be allowed to furnish services on a locum tenens basis at a location other than the physician assistant-certified's primary place of practice. A locum tenens utilization plan may be approved by a single board member."

Section 63. Section 37-20-302, MCA, is amended to read:

"37-20-302. Utilization plan approval and fee ~~-- renewal of license -- renewal fee~~. ~~(1)~~ A utilization plan must be submitted for approval, and a fee must be paid in an amount set by the board. Payment must be made when the utilization plan is submitted to the board and is not refundable.

~~(2) A locum tenens utilization plan approval fee must be paid in an amount set by the board.~~

~~(3) A license issued under this part must be renewed for a period and on a date set by the department~~

~~of labor and industry.~~

~~(4) A license renewal fee set by the board must be paid at the time the license is renewed.~~

~~(5) The department of labor and industry shall mail a renewal notice prior to the renewal date.~~

~~(6) Except as provided in 37-1-138, if the license renewal fee is not paid on or before the renewal date, the board may consider the license lapsed.~~

~~(7) Fees received by the department of labor and industry must be deposited in the state special revenue fund for use by the board in the administration of this chapter, subject to 37-1-101(6).~~"

Section 64. Section 37-22-201, MCA, is amended to read:

"37-22-201. Duties of board. The board ~~shall~~:

~~(1) subject to 37-1-101, examine qualified applicants, issue licenses to qualified applicants that meet the requirements of this chapter, and renew licenses under the provisions of this chapter;~~

~~(2)~~(1) shall recommend prosecutions for violations of 37-22-411 and 37-23-311 to the attorney general or the appropriate county attorney, or both;

~~(3) annually publish a list of the names and addresses of all persons who are licensed social workers;~~

~~(4) establish requirements for continuing education that are a condition of license renewal;~~

~~(5)~~(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 22, and 23 ~~this section~~. The board may, once a year by a consensus of ~~its~~ board members, determine that there is no necessity for a board meeting.

~~(6) distribute a copy of the ethical standards to the certified masters of social work; and~~

~~(7)~~(3) shall adopt rules that set professional, practice, and ethical standards for ~~licensed masters of~~ social ~~work~~ workers and professional counselors and ~~such~~ other rules as may be reasonably necessary for the administration of chapter 23 and this chapter~~.~~; and

(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued."

Section 65. Section 37-22-301, MCA, is amended to read:

"37-22-301. License requirements -- exemptions. (1) A license applicant shall satisfactorily complete an examination ~~prepared and administered~~ prescribed by the board.

(2) Before an applicant may take the examination, the applicant shall present three letters of reference

from licensed social workers, licensed clinical social workers, psychiatrists, or psychologists who have knowledge of the applicant's professional performance and shall demonstrate to the board that the applicant:

(a) has a doctorate or master's degree in social work from a program accredited by the council on social work education or approved by the board;

(b) has completed at least 24 months of supervised post master's degree work experience in psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years; and

(c) abides by the social work ethical standards adopted under 37-22-201.

~~(3) An applicant who submits an application for licensure before October 1, 1994, may acquire the supervised experience required by subsection (2)(b) in less than 24 months.~~

~~(4)~~(3) An applicant who ~~has failed~~ fails the examination may reapply to take the examination.

~~(5)~~(4) An applicant is exempt from the examination requirement if the applicant satisfies the board that the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and that the applicant has passed an examination similar to that required by the board."

Section 66. Section 37-22-302, MCA, is amended to read:

"37-22-302. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~equal to the cost of processing the application.~~

~~(2) Each applicant for a license required to take an examination shall, prior to commencement of the examination, pay an examination fee set by the board equal to the cost of administering the examination.~~

~~(3) Each applicant shall, prior to receipt of a license or license renewal, pay a fee set by the board equal to the cost of issuing a license.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 67. Section 37-23-101, MCA, is amended to read:

"37-23-101. Purpose. The legislature finds and declares that because the profession of professional counseling profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by ensuring ethical, qualified, and professional practice of professional counseling. This chapter and the rules promulgated by the board under ~~37-23-103~~ 37-22-201 set standards of qualification, education,

training, and experience and establish professional ethics for those who seek to engage in the practice of professional counseling as licensed professional counselors."

Section 68. Section 37-23-202, MCA, is amended to read:

"37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily ~~completed~~:

(a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum~~, which~~ that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) ~~and~~ passed an examination prepared and administered by:

~~(i) the board, based on a national examination approved by the board;~~

~~(ii)~~(i) the national board of certified counselors; or

~~(iii)~~(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application ~~form and process prescribed by the board~~.

(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester ~~hour graduate degree that is~~ hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years."

Section 69. Section 37-23-203, MCA, is amended to read:

"37-23-203. ~~Issuance, effective date, and display~~ Display of license. ~~(1) If an applicant meets the requirements contained in 37-23-202 and has paid the appropriate fees, the board shall issue a license to the applicant attesting to the date and fact of licensure. The license is effective on the date of issuance and must be renewed as provided in 37-23-205.~~

~~(2)~~ The license received pursuant to 37-23-202 must be displayed in the registrant's place of business or employment."

Section 70. Section 37-23-206, MCA, is amended to read:

"37-23-206. Fees. ~~(1)~~ Each applicant for a license shall, upon submitting ~~his~~ an application to the board, pay an application fee set by the board. ~~commensurate with costs.~~

~~(2) Each applicant for a license required to take an examination shall, before commencement of the examination, pay an examination fee set by the board commensurate with costs.~~

~~(3) Each applicant shall, before receipt of a license or license renewal, pay a fee set by the board commensurate with costs.~~

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for the use of the board.~~"

Section 71. Section 37-24-202, MCA, is amended to read:

"37-24-202. Powers and duties of board. (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

~~(b) evaluate the qualifications of applicants for licensure under this chapter and approve and supervise the examination of applicants;~~

~~(c)~~(b) adopt rules relating to professional licensure and the establishment of ethical standards of practice under this chapter; and

~~(d) conduct hearings and keep records and minutes as the board considers necessary to carry out its functions; and~~

~~(e)~~(c) adopt a seal by which the board shall authenticate ~~its~~ board proceedings.

(2) A copy of the proceedings, records, or acts of the board, signed by the presiding officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of the document.

~~(3) The department may employ persons it considers necessary to carry out the provisions of this chapter.~~"

Section 72. Section 37-24-303, MCA, is amended to read:

"37-24-303. Requirements for licensure. (1) To be eligible for licensure by the board as an occupational therapist or an occupational therapy assistant, the applicant shall:

(a) present evidence of having successfully completed the academic requirements of an educational program recognized by the board for the license sought;

(b) submit evidence of having successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution where the person completed the academic requirements or

by a nationally recognized professional association;

(c) submit evidence of having been certified by the national board for certification in occupational therapy, inc. (NBCOT); and

(d) pass an examination ~~as provided for in 37-24-304~~ prescribed by the board.

(2) The supervised fieldwork experience requirement for an occupational therapist is a minimum of 6 months. The supervised fieldwork experience requirement for an occupational therapy assistant is a minimum of 2 months."

Section 73. Section 37-24-310, MCA, is amended to read:

"37-24-310. Fees. ~~(1)~~ The board may adopt fees in accordance with 37-1-134 for:

~~(a)~~(1) applications for licensure;

~~(b) examination;~~

~~(c)~~(2) initial license issuance; and

~~(d) license renewal;~~

~~(e) late license renewal; and~~

~~(f)~~(3) limited permit issuance.

~~(2) All fees collected by the board under this section must be deposited in the state special revenue fund for the use of the board in administering this act, subject to 37-1-101(6).~~"

Section 74. Section 37-25-201, MCA, is amended to read:

"37-25-201. Powers and duties of the board. In addition to all other powers and duties conferred and imposed on the board by Title 37, chapter 1, and this chapter, the board shall~~:~~

~~(1) examine qualified applicants for a license to practice dietetics-nutrition, issue licenses to applicants who meet the requirements established by this chapter, and renew licenses as provided in 37-25-307; and~~

~~(2)~~ adopt rules that set professional, practice, and ethical standards for licensed nutritionists and ~~such~~ other rules as may be necessary for the administration of this chapter."

Section 75. Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are

consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

~~(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;~~

~~(4)~~(3) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

~~(5)~~(4) adopt rules that set nonrefundable fees~~, commensurate with costs,~~ for application, ~~examination,~~ and licensure~~, and other administrative services~~;

~~(6)~~(5) approve naturopathic medical colleges as defined in 37-26-103;

~~(7)~~(6) issue certificates of specialty practice;

~~(8)~~(7) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301;

~~(9)~~(8) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301; and

~~(10)~~(9) adopt rules to implement the provisions in 37-1-138."

Section 76. Section 37-26-403, MCA, is amended to read:

"37-26-403. Application for licensure -- examination -- temporary license. (1) A person who desires a license to practice naturopathic medicine in Montana shall apply to the department ~~in the manner and form prescribed by the board~~. The application must be accompanied by the license fees, the application fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the necessary qualifications and whether the applicant has committed unprofessional conduct that would be a basis for licensure denial. At the board's request, the applicant shall provide necessary authorizations for the release of records and information pertinent to the department's investigation.

(2) A person who applies for licensure but who has not passed a licensure examination prescribed or endorsed by the board shall apply to the board for authorization to take the prescribed licensure examination. ~~The application for examination must be accompanied by the examination fee.~~ If the board finds that all other qualifications for licensure except that of examination have been met, the board shall authorize the applicant to take the licensure examination."

Section 77. Section 37-27-105, MCA, is amended to read:

"37-27-105. General powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules may include but are not limited to:

~~(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;~~

~~(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989;~~

~~(c)~~(a) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

~~(d)~~(b) the development of eligibility criteria for client screening by direct-entry midwives ~~in order~~ to achieve the goal of providing midwifery services to women during low-risk pregnancies;

~~(e) the development of procedures for the issuance, renewal, suspension, and revocation of licenses consistent with the provisions in 37-1-138;~~

~~(f) the adoption of disciplinary standards for licensees;~~

~~(g)~~(c) the development of standardized informed consent and reporting forms;

~~(h)~~(d) the adoption of ethical standards for licensed direct-entry midwives;

~~(i)~~(e) the adoption of supporting documentation requirements for primary birth attendants; and

~~(j)~~(f) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201."

Section 78. Section 37-27-210, MCA, is amended to read:

"37-27-210. Fees. (1) An applicant for a direct-entry midwife license shall, upon submitting an application to the board, pay an application fee set by the board~~, commensurate with costs~~.

~~(2) An applicant required to take an examination shall, before commencement of the examination, pay an examination fee set by the board, commensurate with costs.~~

~~(3)~~(2) Before a license may be issued or renewed, an applicant shall pay a fee set by the board~~, commensurate with costs~~.

~~(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~

~~(5)~~(3) Fees are nonrefundable."

Section 79. Section 37-28-104, MCA, is amended to read:

"37-28-104. Board powers and duties. (1) The board shall~~:~~

~~(a) examine~~, license, grant temporary permits, and renew the licenses or permits of duly qualified applicants~~;~~

~~(b) establish examinations and passing scores for licensure under 37-28-202;~~

~~(c) adopt and implement rules for continuing education requirements to ensure the quality of respiratory care~~.

(2) The board may~~:~~

~~(a)~~ adopt rules necessary to implement the provisions of this chapter~~; and~~

~~(b) establish relicensing requirements and procedures that the board considers appropriate~~."

Section 80. Section 37-28-202, MCA, is amended to read:

"37-28-202. Licensing requirements -- examination -- fees. (1) To be eligible for licensure by the board as a respiratory care practitioner, the applicant shall:

(a) submit to the board an application fee in an amount established by the board and ~~a written~~ an application ~~on a form provided by the board~~ demonstrating that the applicant has completed:

(i) high school or the equivalent; and

(ii) a respiratory care educational program accredited or provisionally accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education or their successor organizations; and

(b) pass an examination prescribed by the board. The board may use the entry-level examination written by the national board for respiratory care or another examination that satisfies the standards of the national commission for health certifying agencies or the commission's equivalent.

(2) A person holding a license to practice respiratory care in this state may use the title "respiratory care practitioner" and the abbreviation "RCP"."

Section 81. Section 37-29-306, MCA, is amended to read:

"37-29-306. Licensing. (1) A denturist license is valid for a period established by department rule ~~and expires on the date set by department rule. A renewal license must be issued upon timely payment of the renewal fee and the submission of proof of continued qualification for licensure. In addition, the~~. A denturist shall submit proof that the denturist holds a current cardiopulmonary resuscitation card. ~~The license must bear on its face the address where the licensee's denturist services will be performed.~~

(2) ~~Applications~~ An application must be submitted on ~~forms approved by the board and~~ a form furnished by the department. Each application must include all other documentation necessary to establish that the applicant meets the requirements for licensure and is eligible to take the licensure examination. ~~Applications~~ An application must be accompanied by the appropriate fees.

~~(3) This section may not be interpreted to conflict with 37-1-138.~~"

Section 82. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall prescribe rules for:

(1) the conduct of ~~its~~ board business;

(2) the qualification~~, examination,~~ and ~~registration~~ licensure of applicants to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or manicuring;

(3) the regulation and instruction of apprentices and students;

(4) the conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring for apprentices and students;

(5) the qualification and ~~registration~~ licensure of applicants for booth rental licenses; and

(6) generally the conduct of the persons, firms, or corporations affected by this chapter."

Section 83. Section 37-31-302, MCA, is amended to read:

"37-31-302. License required to practice, teach, or operate salon or shop, booth, or school. (1) A person may not practice or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license.

(2) A place may not be used or maintained for the teaching of barbering, cosmetology, electrology, esthetics, or manicuring for compensation ~~except under a certificate of registration~~ unless licensed as a school.

(3) A person may not operate or manage a salon or shop without a license.

(4) A person may not operate or conduct a school of barbering, cosmetology, electrology, esthetics, or manicuring or teach barbering, cosmetology, electrology, esthetics, or manicuring without a license to teach barbering, cosmetology, electrology, esthetics, or manicuring.

(5) A person may not manage or operate a booth without a booth rental license.

(6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon or shop shall apply to the department for a ~~certificate of registration and~~ license. The application must be accompanied by the ~~registration~~ license fee.

(7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."

Section 84. Section 37-31-303, MCA, is amended to read:

"37-31-303. Application for license to practice or teach. An applicant for a license to practice or teach barbering, cosmetology, electrology, esthetics, or manicuring shall file an application ~~prescribed by the board~~ provided by the department and pass the examination prescribed by the board ~~in order~~ to qualify for licensure. ~~The license must be renewed in accordance with the provisions of 37-31-322.~~"

Section 85. Section 37-31-304, MCA, is amended to read:

"37-31-304. Qualifications of applicants for license to practice. (1) Before a person may practice:

(a) barbering, the person shall obtain a license to practice barbering from the department~~. Before a person may practice~~;

(b) cosmetology, the person shall obtain a license to practice cosmetology from the department~~. Before a person may practice~~;

(c) electrology, the person shall obtain a license to practice electrology from the department~~. Before a person may practice~~;

(d) manicuring, the person shall obtain a license to practice manicuring from the department unless the person is licensed to practice cosmetology~~. Before a person may practice~~; or

(e) esthetics, the person shall obtain a license to practice esthetics from the department unless the person is already licensed to practice cosmetology.

(2) (a) To be eligible to take the examination to practice barbering, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for

granting an exception. The applicant must have completed a course of study of at least 1,500 hours in a ~~registered~~ licensed barbering school and must have received a diploma from the barbering school or must have completed the course of study in barbering at a school of cosmetology authorized to offer a course of study in barbering prescribed by the board.

(b) A person qualified under subsection (2)(a) shall file ~~a written~~ an application and deposit the application fee with the department and pass an examination as to fitness to practice barbering.

(c) The board shall issue a license to practice barbering, without examination, to a person licensed in another state if the board determines that:

(i) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and

(ii) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.

(3) (a) To be eligible to take the examination to practice cosmetology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 2,000 hours in a ~~registered~~ licensed cosmetology school and must have received a diploma from the cosmetology school or must have completed the course of study in cosmetology prescribed by the board.

(b) A person qualified under subsection (3)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice cosmetology.

(4) (a) To be eligible to take the examination to practice electrology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of education, training, and experience in the field of electrology as prescribed by the board by rule.

(b) A person qualified under subsection (4)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice electrology.

(5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that

is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of manicuring. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or a certificate of completion from a vocational-technical program. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (5)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice manicuring.

(6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board and consisting of not less than 650 hours of training and instruction in a ~~registered~~ licensed school of cosmetology or a ~~registered~~ licensed school of esthetics. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (6)(a) shall file ~~a written~~ an application and deposit the required application fee with the department and pass an examination as to fitness to practice esthetics."

Section 86. Section 37-31-305, MCA, is amended to read:

"37-31-305. Qualifications of applicants for license to teach. (1) Before a person may teach manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics or to teach cosmetology, the person shall obtain from the department a license to teach cosmetology.

(2) To be eligible to take an examination to obtain a license to teach cosmetology, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized by the superintendent of public instruction; and

(b) (i) have a license to practice cosmetology issued by the department and have received a diploma from a ~~registered~~ licensed school of cosmetology approved by the board, certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(3) Before a person may teach manicuring to a person seeking only to be licensed to practice manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the department

to teach manicuring.

(4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice manicuring or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(5) Before a person may teach esthetics to a person seeking only to be licensed to practice esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach esthetics.

(6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice esthetics or cosmetology issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.

(7) To be eligible to take an examination to obtain a license to teach barbering, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and

(b) (i) have a license to practice barbering issued by the department and have received a diploma from a ~~registered~~ school licensed as a teacher-training unit certifying satisfactory completion of 500 hours of student teacher training; or

(ii) have been actively engaged as a barber for 3 continuous years immediately before taking the teacher's examination.

(8) To be eligible to take an examination for a license to teach electrology, a person must:

(a) be a high school graduate or possess an equivalent of a high school diploma recognized by the superintendent of public instruction;

(b) have a 100-hour teacher certificate; and

(c) have been actively engaged as an electrologist for 3 continuous years immediately preceding taking the teacher's examination."

Section 87. Section 37-31-308, MCA, is amended to read:

"37-31-308. ~~Examination -- reexamination -- exemption~~ Exemption for persons with disabilities. ~~(1) Examinations for a license to practice barbering, cosmetology, electrology, esthetics, or manicuring or to teach barbering, cosmetology, electrology, esthetics, or manicuring must be held at places and times specified by the board. The examinations may not be confined to a specific method or system. The board may contract with an outside agency for examination and grading services.~~

~~(2)~~ ~~Persons~~ A person with a physical ~~disabilities~~ disability who is trained for barbering, cosmetology, electrology, esthetics, or manicuring by the department of public health and human services ~~are~~ is, for a period of 1 year immediately following ~~their~~ graduation, exempt from the examination and the fees described in 37-31-323. On certification from the department of public health and human services that a department of public health and human services beneficiary has successfully completed the required training in a school of barbering, cosmetology, electrology, esthetics, or manicuring, the department shall issue the person the necessary ~~certificate or~~ license to practice the profession in this state."

Section 88. Section 37-31-311, MCA, is amended to read:

"37-31-311. Schools -- ~~certificate of registration~~ license -- requirements -- bond -- curriculum. (1) A person, firm, partnership, corporation, or other legal entity may not operate a school for the purpose of teaching barbering, cosmetology, electrology, esthetics, or manicuring for compensation unless ~~a certificate of registration has been first obtained from~~ licensed by the department. Application for the ~~certificate~~ license must be filed with the department on ~~a~~ an approved form ~~prescribed by the board~~.

(2) A school for teaching barbering may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of barbering.

(c) It maintains a school term of not less than 1,500 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of barbering.

(3) A school for teaching cosmetology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers ~~who~~ determined by the board ~~determines are~~ to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of cosmetology.

(c) It maintains a school term of not less than 2,000 hours and ~~prescribes~~ a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of cosmetology.

(4) A school for teaching electrology may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school maintains a school term~~, prescribes~~ and a course of practical training and technical instruction prescribed by the board, and possesses apparatus and equipment necessary for teaching electrology as prescribed by the board.

(5) A school for teaching manicuring may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of manicuring.

(b) It maintains a school term and ~~prescribes~~ a course of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of manicuring.

(6) A school for teaching esthetics may not be granted a ~~certificate of registration~~ license unless ~~it~~ the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the ready and full teaching of all subjects or practices of esthetics.

(b) It maintains a school term and a course consisting of not less than 650 hours of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of esthetics.

(7) Licenses ~~or certificates of registration~~ for schools of barbering, cosmetology, electrology, esthetics, or manicuring may be refused, revoked, or suspended as provided in 37-31-331.

(8) A teacher or student teacher may not be permitted to practice barbering, cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a course of student teacher training may not have, at any one time, more than one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

(9) The board may make further rules necessary for the proper conduct of schools of barbering, cosmetology, electrology, esthetics, and manicuring.

(10) The board shall require the person, firm, partnership, corporation, or other legal entity operating a school of barbering, cosmetology, electrology, esthetics, or manicuring to furnish a bond or other security in the amount of $5,000 and in a form and manner prescribed by the board.

(11) A professional salon or shop may not be operated in connection with a school of barbering, cosmetology, electrology, esthetics, or manicuring.

(12) The board may, by rule, establish a suitable curriculum for teachers' training in ~~registered~~ licensed schools of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 89. Section 37-31-312, MCA, is amended to read:

"37-31-312. Inspection. (1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or shops and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, school of barbering, school of cosmetology,

school of electrology, school of esthetics, or school of manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit the inspection during business hours is cause for revocation of a licensee's or school's license ~~or a school's certificate of registration~~.

(2) Upon application for a license, a salon or shop shall pay an initial inspection fee prescribed by the board.

(3) The board may authorize the department to grant to a salon or shop, upon payment of the initial inspection fee, a temporary permit authorizing the salon or shop to operate for a period not to exceed 90 days or until the inspector is able to make the inspection, whichever occurs first. A temporary permit is not renewable.

(4) The department shall require the inspector or inspectors, appointed as provided in subsection (1), to conduct an annual inspection of each salon or shop in the state."

Section 90. Section 37-31-323, MCA, is amended to read:

"37-31-323. Fees. (1) Fees for licenses ~~and certificates of registration~~ must be paid to the department in amounts prescribed by the board.

(2) The license ~~and registration~~ fees must be paid in advance to the department unless otherwise provided by board rule.

(3) Other or additional license ~~or registration~~ fees may not be imposed by a municipal corporation or other political subdivision of this state for the practice or teaching of barbering, cosmetology, electrology, esthetics, or manicuring."

Section 91. Section 37-34-201, MCA, is amended to read:

"37-34-201. Powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of ~~a license application procedure and~~ acceptable certifications for each category of license;

~~(b) the establishment of license fees commensurate with actual costs;~~

~~(c)~~(b) the establishment of criteria for educational requirements that, at a minimum, meet the standards set forth in 37-34-303; and

~~(d) the development of procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses consistent with the provisions in 37-1-138;~~

~~(e) the adoption of disciplinary standards for licensees;~~

~~(f) the establishment of hearing procedures; and~~

~~(g)~~(c) a requirement that the supervisor of a clinical laboratory technician be accessible at all times that testing is being performed by the technician in order to provide onsite, telephonic, or electronic consultation."

Section 92. Section 37-34-305, MCA, is amended to read:

"37-34-305. Licensure application procedures. (1) An applicant shall submit an application for a license to the board ~~upon the forms prescribed and furnished by the board~~ and shall pay an application fee set by the board.

(2) Upon receipt of the application and fee, the ~~board~~ department shall issue a license for a clinical laboratory scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the qualifications specified by the board as set forth in rules adopted by the board pursuant to 37-34-201 and 37-34-303.

~~(3) A license issued under this chapter must be renewed on or before the date set by department rule.~~

~~(4) Except for the assessment provided in 37-1-101(6), money paid for application, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.~~"

Section 93. Section 37-35-103, MCA, is amended to read:

"37-35-103. Department powers and duties. (1) The department shall:

(a) ~~examine,~~ license~~,~~ and renew the licenses of qualified applicants;

(b) adopt rules:

(i) for eligibility requirements and competency standards;

~~(ii) prescribing the time, place, content, and passing requirements of the licensure and competency examinations and passing scores for licensure under 37-35-202;~~

~~(iii) for application forms and fees for licensure and for renewal and licensure expiration dates; and~~

~~(iv)~~(ii) defining any unprofessional conduct that is not included in ~~37-1-316~~ 37-1-410; and

~~(c)~~(iii) ~~adopt and implement rules~~ setting criteria for training programs, internships, and continuing education requirements to ensure the quality of addiction counseling.

(2) The department may:

(a) adopt rules necessary to implement the provisions of this chapter;

(b) adopt rules specifying the scope of addiction counseling that are consistent with the education required by 37-35-202; and

(c) establish licensure requirements and procedures that the department considers appropriate."

Section 94. Section 37-40-302, MCA, is amended to read:

"37-40-302. Application -- examination -- certificate. (1) A person wishing to practice the profession of sanitarian may apply to the department for registration on a form ~~prescribed~~ furnished by the ~~board~~ department.

(2) An applicant must have a minimum of a bachelor's degree in environmental health or its equivalent from an accredited university or college ~~and shall pass an examination given at a time and place set by the board. The board shall establish procedures for examination and determination of passing scores by rule~~.

(3) If the applicant meets the board's standards and passes the examination prescribed by the board, the department shall issue a certificate of registration.

(4) ~~Holders~~ A holder of a current ~~certificates are~~ certificate is entitled to append to ~~their~~ the holder's name the initials "R.S."."

Section 95. Section 37-42-304, MCA, is amended to read:

"37-42-304. Application for operator's certificate -- fee. A person desiring to engage in the operation of a water treatment plant, water distribution system, or wastewater treatment plant shall first file an application with the department for a proper certificate. The department shall charge a fee of the same amount as the license cost ~~as established pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of processing the application is offset by federal funds received. The department may not act on an application until the fee has been paid."

Section 96. Section 37-42-308, MCA, is amended to read:

"37-42-308. Annual renewal -- fees -- revocation for failure to renew -- reinstatement -- notice of suspension. (1) Certificates issued under this chapter must be renewed annually before July 1. A certificate issued after July 1 expires the following June 30. After the payment of the initial fee under 37-42-304, a certificate

holder shall pay before July 1 of each certificate year a renewal fee according to the schedule adopted by the department ~~pursuant to 37-1-134~~, except that the department shall reduce the fee by the amount that the cost of administering the certificate is offset by federal funds received to fund the administration of the program.

(2) Subject to subsection (6), if a certificate holder does not apply for a renewal of the certificate before July 1 and remit to the department the necessary renewal fee, the department shall suspend the certificate. Subject to subsection (6), the department shall revoke any certificate that remains suspended for a period of more than 30 days. However, the department, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of ~~its~~ the department's intention to revoke, at least 10 days before the time set for action to be taken by the department on the certificate.

(3) A certificate once revoked may not be reinstated unless it appears that an injustice has occurred through error or omission or other fact or circumstances indicating to the department that the certificate holder was not guilty of negligence or laches.

(4) Notice of suspension must be given to the certificate holder when the suspension occurs and to the proper official or owner of the treatment works or distribution system.

(5) If a person whose certificate has been revoked through the person's own fault desires to continue as a water or wastewater plant operator, the person shall ~~make application~~ apply to the department under 37-42-304. Successful completion of an examination may be required at the discretion of the department.

(6) This section may not be interpreted to conflict with the provisions of 37-1-138."

Section 97. Section 37-47-101, MCA, is amended to read:

"37-47-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accompany" means to go with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in the area where the activity is being conducted and within sight or sound of the participant at some time during the furnishing of service.

(2) "Base of operations" means the primary physical location where an outfitter receives mail and telephone calls, conducts regular daily business, and bases livestock, equipment, and staff during the hunting season.

(3) "Board" means the board of outfitters provided for in 2-15-1773.

(4) "Camp" means each individual facility or group of facilities that an outfitter uses to lodge a client for a client's trip or uses to lodge a client in the operating area designated in the outfitter's operations plan, including

a motel, campground, bed and breakfast, lodge, tent camp, cabin, camper, trailer, or house.

(5) "Consideration" means something of value given or done in exchange for something of value given or done by another.

(6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(7) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.

(8) "License year" means ~~that~~ the period ~~beginning January 1 and ending December 31 of the same year~~ indicated on the face of the license for which the license is valid.

(9) "Net client hunter use" or "NCHU" means the most actual clients served by an outfitter in any NCHU license category in any license year, as documented by verifiable client logs or other documents maintained by the board pursuant to 37-47-201~~(7)~~.

(10) "Nonresident" means a person other than a resident.

(11) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal; facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or professional guide in accompanying that person.

(12) "Participant" means a person using the services offered by a licensed outfitter.

(13) "Professional guide" means a guide who ~~has met~~ meets experience, training, and testing qualifications for designation as a professional guide, as set by board rule.

(14) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102."

Section 98. Section 37-47-201, MCA, is amended to read:

"37-47-201. Powers and duties of board relating to outfitters, guides, and professional guides. The board shall:

~~(1) prepare and publish an information pamphlet that contains the names and addresses of all licensed outfitters. This pamphlet must be available for free distribution as early as possible during each calendar year but not later than the second Friday in March. The pamphlet must contain the names and addresses of only those~~

~~outfitters who have a valid license for the current license year.~~

~~(2)~~(1) cooperate with the federal government in matters of mutual concern regarding the business of outfitting and guiding in Montana;

~~(3)~~(2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;

~~(4)~~(3) establish outfitter standards, guide standards, and professional guide standards;

~~(5)~~(4) adopt:

~~(a) rules of procedure;~~

~~(b)~~(a) rules to administer and enforce this chapter, including rules prescribing all requisite qualifications for licensure as an outfitter, guide, or professional guide. Qualifications for outfitters must include training, testing, experience in activities similar to the service to be provided, knowledge of rules of governmental bodies pertaining to outfitting and condition and type of gear and equipment, and the filing of an operations plan.

~~(c)~~(b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health, safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing or offering to practice as an outfitter, guide, or professional guide;

~~(d)~~(c) rules specifying standards for review and approval of proposed new operations plans involving hunting use or the proposed expansion of net client hunter use, as set forth in 37-47-316 and 37-47-317, under an outfitter's existing operations plan. Approval is not required when part or all of an existing operations plan is transferred from one licensed outfitter to another licensed outfitter. Rules adopted pursuant to this section must provide for solicitation and consideration of comments from hunters and sportspersons in the area to be affected by the proposal who do not make use of outfitter services.

~~(e)~~(d) rules establishing outfitter reporting requirements. The reports must be filed annually and report actual leased acreage actively used by clients during that year and actual leased acres unused by clients during that year, plus any other information designated by the board and developed in collaboration with the department of fish, wildlife, and parks or the review committee established in 87-1-269 that is considered necessary to evaluate the effectiveness of the hunter management and hunting access management programs.

~~(6)~~(5) hold hearings and proceedings to suspend or revoke licenses of outfitters, guides, and professional guides for due cause;

~~(7)~~(6) maintain records of actual clients served by all Montana outfitters that fulfill the requirements of subsection ~~(5)(e)~~ (4)(d)."

Section 99. Section 37-47-304, MCA, is amended to read:

"37-47-304. Application. (1) Each applicant for an outfitter's, guide's, or professional guide's license shall apply for a license on a form ~~prescribed and~~ furnished by the ~~board~~ department.

(2) The application for an outfitter's license forms the basis for the outfitter's operations plan and must include:

(a) the applicant's full name, residence, address, conservation license number, driver's license number, birth date, physical description, and telephone number;

(b) the address of the applicant's principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the applicant;

(d) the experience of the applicant, including:

(i) years of experience as an outfitter, guide, or professional guide;

(ii) the applicant's knowledge of areas in which the applicant has operated and intends to operate; and

(iii) the applicant's ability to cope with weather conditions and terrain;

(e) a signed statement of the licensed outfitter for each guide and professional guide to be employed or retained as an independent contractor, stating that the guide or professional guide is to be employed by the outfitter and stating that the outfitter recommends the guide or professional guide for licensure;

(f) an affidavit by the outfitter to the board that the equipment listed on the application is in fact owned or leased by the applicant, is in good operating condition, and is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant;

(g) a statement of the maximum number of participants to be accompanied at any one time;

(h) the written approval of the appropriate agency or landowner on whose lands the applicant ~~will~~ intends to provide services or establish hunting camps; and

(i) the boundaries of the proposed operation, stating when applicable:

(i) the name and portion of river;

(ii) the county of location;

(iii) the legal owner of the property;

(iv) the name of the ranch;

(v) the proposed service, including the type of game sought;

(vi) the name of the agency granting use authority; and

(vii) other means of identifying boundaries as established by board rule.

(3) ~~Applications~~ An application for an outfitter's license must be in the name of an individual person only.

~~Applications~~ An application involving corporations, proprietorships, or partnerships must be made by one individual person who qualifies under the provisions of this part. A license issued pursuant to this part must be in the name of that person. Any revocation or suspension of a license is binding upon the individual person and the corporation, proprietorship, or partnership for the use and benefit of which the license was originally issued.

(4) Application must be made to and filed with the board.

(5) Only one application for an outfitter's license may be made in any license year. If an application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 37-47-308."

Section 100. Section 37-50-304, MCA, is amended to read:

"37-50-304. Public accountants -- licensure without examination of former military personnel -- examination otherwise required. (1) ~~Persons~~ A person serving in the armed forces of the United States on July 1, 1969, who immediately prior to entering ~~this service held themselves out~~ the armed forces represented to the public ~~as~~ that the person was a public ~~accountants~~ accountant and who ~~were~~ was engaged as ~~principals~~ a principal in this state in the practice of public accounting as ~~their~~ the person's principal occupation prior to service in the armed forces may register with the department within 6 months after the date of ~~their~~ the person's separation from active service and, on registration and payment of the license fee, be issued a license by the department as a licensed public accountant. A principal is either the owner of or a partner in an existing accounting practice on July 1, 1969.

(2) ~~In order to~~ To be issued a license as a licensed public accountant, a person who does not qualify under subsection (1) shall successfully complete those portions of the examination ~~provided for in 37-50-308~~ prescribed by the board by rule. The board may require successful completion of alternate portions of the examination for applicants holding valid United States treasury cards at the time of taking the examination."

Section 101. Section 37-51-204, MCA, is amended to read:

"37-51-204. Educational programs. (1) The board may, subject to 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in this connection.

(2) Except as provided in 37-51-302 and subsection (3) of this section, the board may not require examinations of licensees.

(3) The board may require specified performance levels of a licensee with respect to the subject matter

of a continuing education course required ~~under 37-51-310~~ by the board when the licensee and the instructor of the course are not physically present in the same facility at the time the licensee receives the instruction."

Section 102. Section 37-51-303, MCA, is amended to read:

"37-51-303. Broker or salesperson examination. (1) In addition to proof of honesty, trustworthiness, and good reputation, an applicant whose application is pending shall satisfactorily pass an examination ~~prescribed by or under the supervision of the board. The examination must be given at least once each 6 months and at places within the state that the board prescribes~~.

(2) (a) The examination for a salesperson's license must include subject portions that the board determines by rule to be appropriate.

(b) If the applicant passes one subject portion of the examination, the applicant is not required to repeat that portion of the examination if the applicant passes the remaining portion within 12 months.

(3) The examination for a broker's license must be of a more exacting nature and scope and more stringent than the examination for a salesperson's license."

Section 103. Section 37-51-305, MCA, is amended to read:

"37-51-305. License ~~-- form~~ -- delivery -- display -- pocket card. (1) ~~The board shall prescribe the form of license.~~ A license ~~shall~~ must bear the seal of the board.

(2) The license of a real estate salesperson ~~shall~~ must be delivered or mailed to the real estate broker with whom the real estate salesperson is associated and ~~shall~~ must be kept in the custody and control of the broker.

(3) A broker shall display ~~his~~ the broker's own license conspicuously in ~~his~~ the broker's place of business.

(4) The department shall annually prepare and deliver a pocket card certifying that the person whose name appears is a registered real estate broker or a registered real estate salesperson, stating the period for which fees have been paid and, on real estate salesperson's cards only, the name and address of the broker with whom ~~he~~ the real estate salesperson is associated."

Section 104. Section 37-51-603, MCA, is amended to read:

"37-51-603. Qualification of property manager applicants -- examination -- form of licenses. (1) The board by rule shall require an applicant for licensure to provide information that the board believes is necessary to ensure that a person granted a property manager license is of good repute and competent to

transact the business of a property manager in a manner that safeguards the welfare and safety of the public.

(2) (a) The board shall require an applicant for a property manager license to:

(i) apply for licensure to the department;

(ii) furnish written evidence that the applicant has completed the number of classroom hours that the board determines appropriate in a course of study approved by the board and taught by instructors approved by the board; and

(iii) satisfactorily complete an examination dealing with the material taught in the course of study.

(b) The course of study must include the subjects of real estate leasing principles, real estate leasing law, and related topics.

~~(3) Examinations must be given at least once every 4 months at places within the state that the board prescribes. The board shall establish by rule the contents of and requirements to pass the examination.~~

~~(4)~~(3) An applicant for licensure as a property manager must be at least 18 years of age and must have graduated from an accredited high school or completed an equivalent education as determined by the board.

~~(5)~~(4) The ~~board shall prescribe the form of the license, and the~~ license must bear the seal of the board. A property manager shall display the license conspicuously in the property manager's place of business.

~~(6)~~(5) The department shall prepare and deliver to the licensee a pocket card in a form and at times prescribed by the board."

Section 105. Section 37-53-104, MCA, is amended to read:

"37-53-104. Rulemaking authority. The board shall adopt rules to carry out the provisions of this chapter. The rules may include but are not limited to:

(1) ~~format of forms for applications and renewal of registration~~ qualifications for applicants and ~~prescribing~~ any additional applicant information ~~to~~ that must be supplied;

(2) documents acceptable in lieu of registration documents under 37-53-204;

(3) conditions that may be placed upon registration under 37-53-212;

(4) the subject matter of the examination or continuing education requirement for license as a timeshare salesperson or timeshare broker; ~~and~~

(5) additional information included in a disclosure document; and

(6) fees established pursuant to 37-1-134."

Section 106. Section 37-60-304, MCA, is amended to read:

"37-60-304. Licenses -- application form and content. (1) Except as provided in 37-60-303(8), an application for a license must be made on ~~a~~ an approved form ~~prescribed by the board~~ and accompanied by the application fee set by the board.

(2) An application must be made under oath and must include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, a private investigator, or a private security guard;

(e) one recent photograph of the applicant, of a type prescribed by the board, and two classifiable sets of the applicant's fingerprints;

(f) a statement of the applicant's age and experience qualifications; and

(g) other information, evidence, statements, or documents as may be prescribed by the rules of the board.

(3) The board shall verify the statements in the application and the applicant's moral character.

(4) The submittal of fingerprints ~~must be~~ is a prerequisite to the issuance of a license by means of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

(5) The board shall send written notification to the chief of police, sheriff, and county attorney in whose jurisdiction the principal office of the applicant is to be located that an application has been submitted."

Section 107. Section 37-66-304, MCA, is amended to read:

"37-66-304. (Temporary) Qualifications not required -- application for licensure. (1) A person wishing to practice landscape architecture in this state shall apply to the department for a license and successfully pass ~~a written~~ an examination ~~established~~ prescribed by the board.

(2) Each applicant must be admitted to the examination without prerequisite qualifications. (Terminates September 30, 2005--sec. 78, Ch. 492, L. 2001.)

37-66-304. (Effective October 1, 2005) Qualifications and application for licensure. (1) A person wishing to practice landscape architecture in this state shall apply to the department for a license.

(2) Each applicant for licensure must have successfully completed the educational, practical experience, and ~~written~~ examination requirements ~~established~~ prescribed by the board."

Section 108. Section 37-67-303, MCA, is amended to read:

"37-67-303. Application -- contents -- examination -- fees. (1) ~~Applications~~ An application for licensure must be on ~~forms prescribed by the board and~~ a form furnished by the department~~, must contain statements made under oath showing the applicant's education and~~ that provides for a detailed summary of the applicant's technical work~~,~~ and that must contain the required references.

(2) The application fee for an engineer intern is as prescribed by the board and must accompany the application. An additional fee is not required for the issuance of a certificate.

(3) The application fee for licensure as a professional engineer is as prescribed by the board for those holding ~~an~~ a board-approved engineer intern certificate ~~validated for Montana. For those holding a valid engineer intern certificate from some other state, the application fee is as prescribed by the board, which includes the cost of verification of engineer intern certification or licensure. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.~~

~~(4) The department, subject to approval by the board, may, on approval of the application and payment of an application fee as prescribed by the board, issue a license as a professional engineer to a person who holds a certificate of qualification or licensure issued to the person by the committee on national engineering certification of the national council of examiners for engineering and surveying or by a state, territory, or possession of the United States or by another country if the applicant's qualifications meet the requirements of this chapter and the rules of the board~~.

(4) An applicant for a license as a professional engineer shall file an application and satisfactorily pass an examination prescribed by the board. Upon approval of an application for licensure and passage of the required examination as a professional engineer, the department shall issue a license as a professional engineer.

(5) The application fee for a land surveyor intern is as prescribed by the board and must accompany the application. An additional fee is not required for issuance of a certificate.

(6) The application fee for licensure as a professional land surveyor is as prescribed by the board for those holding a board-approved land surveyor intern certificate ~~validated in Montana. For those holding a valid land surveyor intern certificate from some other state, the application fee is as prescribed by the board, which includes cost of verification of the certification~~. Upon approval of an application for licensure as a professional land surveyor and passage of the required ~~examination~~ examinations, the department shall issue a license as a professional land surveyor.

(7) (a) The application fee for licensure as both a professional engineer and professional land surveyor

is as prescribed by the board for those holding board-approved engineer intern and land surveyor intern certificates ~~validated in Montana. For those holding valid engineer intern and land surveyor intern certificates from another jurisdiction, the application fee is as prescribed by the board~~.

(b) The fee must accompany the application. Upon approval of an application for licensure as a professional engineer and professional land surveyor and passage of the required examinations, the department shall issue a license.

(8) If the board denies the issuance of a license to any applicant, the initial fee deposited must be retained as an application fee."

Section 109. Section 37-67-321, MCA, is amended to read:

"37-67-321. Emeritus status. (1) A licensee who no longer practices engineering or land surveying may apply to the ~~board~~ department for emeritus status.

(2) Upon receiving an application for emeritus status accompanied by the fee established by the board, the ~~board~~ department shall issue a license of emeritus status to the applicant and record the applicant's name in the roster as an emeritus licensee, along with the date on which the licensee received emeritus status.

(3) An emeritus licensee may retain but may not use the licensee's seal and may not practice engineering or land surveying.

(4) The ~~board~~ department shall reissue a license to an emeritus licensee who pays all application fees, meets all current requirements for licensure, and demonstrates to the board's satisfaction that for the 2 years preceding the application for licensure, the applicant has met ~~the~~ requirements set by the board for maintaining professional competence ~~established under 37-67-315~~."

Section 110. Section 37-68-201, MCA, is amended to read:

"37-68-201. Organization -- meetings -- rulemaking power -- seal. (1) Each July, the board shall elect from its membership a president, vice president, and secretary-treasurer.

(2) The board shall meet quarterly and at other times ~~it~~ that the board considers necessary.

(3) The board may:

(a) adopt rules for the administration of this chapter~~,~~ and for the licensing of electrical contractors~~,~~ and ~~for the examination and licensing of~~ master and journeyman electricians;

(b) adopt a seal;

(c) cause the prosecution and enjoinder of persons violating this chapter."

Section 111. Section 37-68-304, MCA, is amended to read:

"37-68-304. Master electricians -- application -- qualifications -- ~~contents of~~ examination -- fees. (1) An applicant for a master electrician's license shall furnish written evidence of being a graduate electrical engineer of an accredited college or university and of having 1 year of practical electrical experience or that the applicant is a graduate of an electrical trade school and has at least 4 years of practical experience in electrical work or has had at least 5 years of practical experience in planning, laying out, or supervising the installation and repair of wiring, apparatus, or equipment for electrical light, heat, and power.

(2) ~~Applicants~~ An applicant for a license as a master electrician shall file an application on ~~forms prescribed by the board and~~ a form furnished by the department, submit appropriate fees, and satisfactorily pass an examination prescribed by the board. ~~The board shall, not less than 30 days prior to a scheduled examination, notify each applicant that the evidence submitted with the applicant's application is sufficient to qualify to take the examination or that the evidence is insufficient and is rejected. If the application is rejected, the board shall set forth the reasons in the notice to the applicant. The place of examinations must be designated by the board, and examinations must be held at least once a year and at other times as, in the opinion of the board, the number of applicants warrants.~~

~~(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the national electric code;~~

~~(b) cost estimating for electrical installments;~~

~~(c) procurement and handling of materials needed for electrical installations and repair;~~

~~(d) reading blueprints for electrical work;~~

~~(e) drafting and layout of electrical circuits; and~~

~~(f) knowledge of practical electrical theory.~~

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~"

Section 112. Section 37-68-305, MCA, is amended to read:

"37-68-305. Journeyman and residential electricians -- application -- qualifications -- contents of examination. (1) An applicant for a journeyman electrician's license shall furnish written evidence of at least 4 ~~years'~~ years of apprenticeship in the electrical trade or 4 ~~years'~~ years of practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power. Applications for license

and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~

(2) An applicant for a residential electrician's license shall furnish written evidence of at least 2 ~~years'~~ years of apprenticeship in the electrical trade or 2 ~~years'~~ years of practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power in residential construction consisting of less than five living units in a single structure. Application for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~"

Section 113. Section 37-68-312, MCA, is amended to read:

"37-68-312. Electrical contractor's license -- application ~~-- issuance~~ -- fees ~~-- renewal~~. Each electrical contractor shall, on or before the date set by department rule, file with the department an application ~~in writing~~ together with the appropriate fees for each firm operated by the electrical contractor in this state ~~for renewal of the license. A license may not be issued or renewed until the applicant meets the licensure requirements and has paid to the department a license fee set by the board for each firm operated by the electrical contractor. Licenses must bear the date of issuance or renewal. A license must be renewed for a 3-year period upon payment to the department of the license fee on or before the renewal date and upon meeting the requirements set by board rule~~."

Section 114. Section 37-69-304, MCA, is amended to read:

"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by applicants for a journeyman plumber's license:

(a) a specific record of 5 ~~years'~~ years of experience in the field of plumbing of a character satisfactory to the board. This experience requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or pay records, or by completing an apprenticeship program meeting the standards set by the department ~~of labor and industry~~ or the United States department of labor, bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of an examination ~~conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing~~ prescribed by the board.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board.

~~(3) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~

~~(4) The department may use a third party to provide examination and grading services.~~"

Section 115. Section 37-69-305, MCA, is amended to read:

"37-69-305. Qualifications of applicants for master plumber's license -- restriction on authority ~~-- fees -- third-party services~~. (1) The following requirements must be met by an applicant for a master plumber's license:

(a) evidence of 4 ~~years'~~ years of experience as a licensed journeyman plumber in the field of plumbing, verified by time or pay records of actual plumbing experience;

(b) evidence of 3 ~~years'~~ years of experience working with a licensed master plumber or in a supervisory capacity in the field of plumbing, which may run concurrently with the requirement in subsection (1)(a); and

(c) satisfactory completion of an examination ~~for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing~~ prescribed by the board.

(2) For purposes of subsection (1), ~~a year's~~ 1 year of experience is 1,500 hours or more of work in a continuous 12-month period.

(3) A master plumber may not allow the master plumber's license to be used by any person or firm, corporation, or business other than the master plumber's own for the purpose of obtaining permits or for doing plumbing work under the license.

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.~~

~~(5) The department may use a third party to provide examination and grading services.~~"

Section 116. Section 37-69-306, MCA, is amended to read:

"37-69-306. Examination -- issuance of license. (1) An applicant for a license to work in the field of plumbing ~~shall be examined as to his qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine his skill and qualifications as a master plumber or journeyman plumber.~~

~~(2) The applicant~~ must, upon successfully passing ~~the~~ an examination prescribed by the board, ~~shall~~ be issued a license authorizing ~~him~~ the applicant to engage in the field of plumbing as a master plumber or journeyman plumber in the state of Montana.

~~(3)~~(2) In the case of a firm or corporation, the examination and issuance of a license to an individual of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master plumbers but not as to journeyman plumbers. ~~No~~ An individual, firm, or corporation may not do the work of a master plumber unless licensed under this chapter.

~~(4)~~(3) In addition to the temporary permits authorized in 37-1-305, the ~~board~~ department may, ~~on a case-by-case basis at the board's discretion and~~ in accordance with criteria determined by ~~the board~~ department rule, renew a temporary practice permit for a person who fails the first license examination for which the person is eligible ~~but who submits a temporary practice permit renewal application to the board stating that the person intends to retake the license examination on the next available date~~."

Section 117. Section 37-69-401, MCA, is amended to read:

"37-69-401. Medical gas piping installation endorsement. (1) A medical gas piping installation endorsement entitles the holder to install pipe used solely for transporting gases used for medical purposes.

(2) To be eligible for endorsement under this section, a person must meet all requirements for endorsements established by the board by rule.

(3) A person with a valid medical gas piping installation endorsement from another state may install medical gas piping in this state.

(4) The board shall by rule establish the requirements for obtaining a medical gas piping installation endorsement. ~~Fees must be established by rule and must be commensurate with the costs of administering the~~

~~medical gas piping installation endorsement program.~~"

Section 118. Section 37-72-102, MCA, is amended to read:

"37-72-102. Penalty -- injunction. (1) A person convicted of violating any provision of this chapter or the rules of the department is guilty of a misdemeanor and shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed $500, or both.

(2) The district court may enjoin any violation or threatened violation of the requirements of 37-72-101, 37-72-201, 37-72-202, ~~or~~ 37-72-301 ~~through~~, 37-72-302, 37-72-304, 37-72-305, or 37-72-307 or the rules of the department as a nuisance per se; and the department, the attorney general, or any county attorney may institute proceedings for an injunction."

Section 119. Section 37-72-202, MCA, is amended to read:

"37-72-202. General rulemaking power. The department shall adopt rules to:

(1) implement the training and experience requirements of 37-72-302;

(2) prescribe the amount of the fees provided for in 37-72-301 ~~and 37-72-303 through 37-72-306~~, 37-72-304, and 37-72-305, which must be nonrefundable, in an amount commensurate with the cost of administering this chapter, and deposited in the state special revenue fund for the use of the department;

(3) regulate the use of explosives and grant variances under the provisions of 37-72-201, except that, unless the department is making an investigation under 37-72-203(2), the department does not have the power under this chapter to make inspections into construction blasting and may not adopt rules providing for ~~such~~ inspections related to construction blasting or for inspectors to carry out ~~such~~ inspections related to construction blasting;

(4) provide for the form of the license and pocket card provided for in 37-72-307; and

(5) provide for the conduct of the business of the department under this chapter and govern ~~its~~ department proceedings under 37-72-203."

Section 120. Section 37-72-305, MCA, is amended to read:

"37-72-305. Licensure of persons licensed by other jurisdictions. Upon receipt of an application and application fee, the department shall issue a license to any person fulfilling the requirements of 37-72-301(2)(a) through (2)(d) who holds a certificate, license, or permit, issued by another state or any agency of the United States, allowing the person to supervise or engage in the practice of construction blasting if the department finds

that the certificate, license, or permit was issued upon the satisfactory completion of requirements substantially equivalent to the requirements of 37-72-301 ~~through 37-72-303~~ and 37-72-302."

Section 121. Section 37-76-109, MCA, is amended to read:

"37-76-109. Registration and renewal fees. (1) An application for registration or renewal of registration must be accompanied by a fee ~~of $200~~.

(2) All fees and money received by the department must be deposited in ~~a~~ the state special revenue fund in an account for use by the department in performing the duties required by this chapter."

Section 122. Section 50-16-201, MCA, is amended to read:

"50-16-201. Definitions. As used in this part, the following definitions apply:

(1) (a) "Data" means written reports, notes, or records or oral reports or proceedings created by or at the request of a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee of a health care facility that are used exclusively in connection with quality assessment or improvement activities, including the professional training, supervision, or discipline of a medical practitioner by a health care facility.

(b) The term does not include:

(i) incident reports or occurrence reports; or

(ii) health care information that is used in whole or in part to make decisions about an individual who is the subject of the health care information.

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) (a) "Incident reports" or "occurrence reports" means a written business record of a health care facility, created in response to an untoward event, such as a patient injury, adverse outcome, or interventional error, ~~in order to ensure~~ for the purpose of ensuring a prompt evaluation of the event.

(b) The terms do not include any subsequent evaluation of the event in response to an incident report or occurrence report by a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee.

(4) "Medical practitioner" means an individual licensed by the state of Montana to engage in the practice of medicine, osteopathy, podiatry, optometry, or a nursing specialty described in 37-8-202~~(5)~~ or licensed as a physician assistant-certified pursuant to 37-20-203."

Section 123. Section 50-74-312, MCA, is amended to read:

"50-74-312. Review of license rejection -- waiting period. (1) An applicant for a license under the provisions of this chapter whose application has been rejected may, within 45 days after the date of the rejection, set forth in writing any arguments opposing the rejection and request a review by the department. The request must be addressed to the department and must be signed by the applicant.

(2) Within 2 days after receiving the request, the department shall notify the applicant in writing that on a certain day, not less than 5 days or more than 30 days after receipt of the written request, the department shall review and evaluate the application and any arguments opposing the rejection of the license application.

(3) The applicant may appear in person at the review. At least 2 days before the day set for the review, the applicant may designate in writing to the department ~~of labor and industry~~ the name of an engineer holding a valid license of equal or higher grade than the one applied for, and the engineer may testify on behalf of the applicant at the review.

(4) After the review, if the department ~~of labor and industry~~ determines that the applicant is entitled to the license, the department shall issue the license. If the department affirms the decision to not issue the license, the applicant ~~is required to~~ may reapply to take the license examination, as provided in ~~50-74-309 and~~ 50-74-311, and may not take the examination within 45 days of the final decision to not issue the license."

Section 124. Section 80-8-207, MCA, is amended to read:

"80-8-207. Dealers. (1) ~~It is unlawful for a~~ A person ~~to~~ may not sell, offer for sale, deliver, or have delivered within the state a pesticide without first obtaining a license from the department for each calendar year or portion of a year. A separate dealer's license and fee is required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. Pesticide field personnel or salespeople employed directly out of the same location or outlet and under a licensed dealer are not required to obtain a license. The dealer shall furnish the department with the names and addresses of ~~its~~ the dealer's field personnel and salespeople selling pesticides within the state.

(2) The application for a license must be accompanied by a fee of $45. ~~Dealers~~ A dealer applying for renewal of a license shall ~~do so~~ apply on or before March 1 of the calendar year. A dealer applying for renewal of a license after March 1 must be assessed a $25 late licensing fee.

(3) The dealer shall require the purchaser of a restricted pesticide to exhibit the purchaser's license or permit issued under authority of this chapter, or the dealer may verify, under procedures authorized by the department, the purchaser's license or permit through a department list or by electronic means before completing

a sale. The department may adopt rules concerning dealer verification of licenses and permits.

(4) The department shall assess an additional annual license fee of $10 on dealers to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than $10 a year or more than $15 a year. Fees collected under this subsection must be deposited in an account in the state special revenue ~~account~~ fund pursuant to 80-8-112.

(5) Pharmacists licensed as provided for in 37-7-302 ~~and 37-7-303~~, veterinarians licensed as provided for in 37-18-302 ~~and 37-18-303~~, and certified pharmacies licensed under 37-7-321 are not required to be licensed to sell pesticides~~, provided that~~ if the certified pharmacies and veterinarians register with the department each year. However, the certified pharmacies and veterinarians ~~shall~~ must meet all other requirements concerning the commercial sale of pesticides. The department shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

NEW SECTION. **Section 125. Repealer.** Sections 37-3-346, 37-4-203, 37-4-303, 37-4-403, 37-6-303, 37-7-303, 37-8-431, 37-10-307, 37-11-305, 37-11-308, 37-11-309, 37-12-307, 37-13-306, 37-13-307, 37-14-303, 37-14-309, 37-14-310, 37-15-304, 37-15-306, 37-15-308, 37-15-312, 37-16-403, 37-16-407, 37-17-303, 37-17-305, 37-17-306, 37-17-307, 37-17-308, 37-18-203, 37-18-303, 37-18-307, 37-19-306, 37-22-303, 37-22-304, 37-23-103, 37-23-205, 37-24-304, 37-24-308, 37-25-307, 37-28-203, 37-29-304, 37-29-305, 37-31-321, 37-31-322, 37-35-203, 37-40-304, 37-40-305, 37-47-312, 37-50-308, 37-50-317, 37-51-310, 37-53-103, 37-54-210, 37-54-211, 37-54-311, 37-60-312, 37-65-304, 37-65-306, 37-66-307, 37-67-315, 37-67-316, 37-67-318, 37-68-307, 37-68-310, 37-69-307, 37-72-303, 37-72-306, 50-39-105, 50-39-106, 50-74-309, 50-74-313, and 50-76-105, MCA, are repealed.

NEW SECTION. **Section 126. Effective date.** [This act] is effective July 1, 2005.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **VICE CHAIRMAN KATHLEEN GALVIN-HALCRO**, on January 17, 2005 at 9:30 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Joe McKenney, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Bob Bergren (D)
Rep. Kevin T. Furey (D)
Rep. Dave Gallik (D)
Rep. Ralph Heinert (R)
Rep. Mike Jopek (D)
Rep. Harry Klock (R)
Rep. Scott Mendenhall (R)
Rep. Mike Milburn (R)
Rep. Don Roberts (R)
Rep. Wayne Stahl (R)
Rep. Jonathan Windy Boy (D)

Members Excused: Rep. Jim Keane, Chairman (D)
Rep. Llew Jones (R)
Rep. Tim Dowell (D)
Rep. Dan Villa (D)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:
Hearing & Date Posted: HB 203, 1/11/2005; HB 182, 1/11/2005
Executive Action:

HEARING ON HB 203

Opening Statement by Sponsor: REP. DON ROBERTS (R), HD 56, opened the hearing on **HB 203,** Clarify responsibility of boards and department of labor and industry.
00:03:00

Proponents' Testimony:
00:05:58 Keith Kelly, Montana Department of Labor and Industry
00:08:23 Jim Brown, Montana Department of Labor and Industry
EXHIBIT(buh12a01)
00:17:06 Pat Melby, Rimrock Foundation
EXHIBIT(buh12a02)
EXHIBIT(buh12a03)
00:20:48 Mona Jamison, Boyd Andrew Community Services, American Chapter of Physical Therapy Association
00:24:36 Don Hargrove, Montana Additive Services Providers
00:25:59 Holly Franz, Montana Society of CPA's
00:26:21 Casey Blumenthal, Montana Health Care Providers
EXHIBIT(buh12a04)
EXHIBIT(buh12a05)
00:29:05 Stuart Doggett, Montana Veterinary Association

Opponents' Testimony:
00:29:45 Jerry Driscoll, Montana AFL-CIO
00:30:28 Jim Smith, Montana Pharmacy Association
EXHIBIT(buh12a06)
00:36:38 Peter Wolfgran, Pharmacy owner

Informational Testimony:
00:40:34 Angus Maciver, Legislative Audit Division

Questions from Committee Members and Responses:
00:41:12

Closing by Sponsor:
00:50:05

HEARING ON HB 182

Opening Statement by Sponsor: REP. DON ROBERTS (R), HD 56, opened the hearing on **HB 182,** Generally revise professional and occupational licensing laws.
01:05:08

Proponents' Testimony:
01:06:15 Keith Kelly, Montana Department of Labor and Industry
01:07:56 Jim Brown, Montana Department of Labor and Industry
EXHIBIT(buh12a07)
01:22:07 Carl Schweitzer, Associated Plumbing and Heating Contractors
EXHIBIT(buh12a08)

Opponents' Testimony:
01:23:26 Casey Blumenthal, Montana Health Care Providers
EXHIBIT(buh12a09)
01:29:04 Keith Allen, International Brotherhood of Electrical Workers
EXHIBIT(buh12a100)
01:32:16 John Forkan, Montana Association of Plumbers and Pipefitters
01:33:41 Rose Hughes, Montana Health Care Association
01:41:25 J.D. Lynch, Montana State Building Trades

Informational Testimony:
01:44:10 Angus Maciver, Legislative Audit Division
01:44:46 Jean Johnson, Outfitters Organization

Questions from Committee Members and Responses:
01:45:44

Closing by Sponsor:
02:09:14

ADJOURNMENT

Adjournment: 11:40 A.M.

_____
REP. JIM KEANE, Chairman

_____
KYANNE KELLY, Secretary

JK/KK

Additional Exhibits:

EXHIBIT(buh12aad0.PDF)

EXHIBIT 7
DATE 1-17-05
HB 182

HB182 Department of Labor Industry Professional and Occupational Licensing

	Change Affects All Licensing Boards and Programs	ALTERNATIVE HEALTH CARE	ATHLETICS	ARCHITECTS	BARBERS/COSMETOLOGY	BLASTERS	BOILERS	CHIROPRACTOR	CLINICAL LAB SCIENCE PRACTITIONERS	CRANES	DENTISTRY	ELECTRICIANS	FUNERAL SERVICE	HEARING AID DISPENSERS	HORSE RACING	LANDSCAPE ARCHITECTS	LICENSED ADDICTION COUNSELORS	MEDICAL EXAMINERS	NURSING	NURSING HOME ADMINISTRATORS	OCCUPATIONAL THERAPY	OPTOMETRY	OUTFITTERS	PHARMACY	PHYSICAL THERAPY	PLUMBERS	PRIVATE INVESTIGATORS AND PATROL OFFICERS	PROFESSIONAL ENGINEERS AND LAND SURVEYORS	PSYCHOLOGISTS	PUBLIC ACCOUNTANTS	RADIOLOGIC TECHNOLOGISTS	REAL ESTATE APPRAISALS	REALTY REGULATION	RESPIRATORY CARE PRACTITIONERS	SANITARIANS	SOCIAL WORK & PROFESSIONAL COUNSELING	SPEECH PATHOLOGISTS AND AUDIOLOGISTS	WATER WELL DRILLERS
Authorizes DLI to issue routine licenses for the boards	Sec 6							Sec 50	Sec 92									Sec 20, 21, 74								Sec 116		Sec 109									
Standarize statutes by repealing specific language setting examination and licensure qualifications to allow boards to address these areas in rule	Sec 11	Sec 75, 76, 77			Sec 82, 87			Sec 49			Sec 32, 34	Sec 110, 111, 112		Sec 53		Sec 107	Sec 93	Sec 22, 23, 25, 51, 74			Sec 71, 72	Sec 45, 46		Sec 37, 38, 39	Sec 47, 48	Sec 114, 115, 116		Sec 108	Sec 56		Sec 52		Sec 102, 104	Sec 79	Sec 94	Sec 84, 68, 70		
Authorizes DLI to contract for examination administration and grading	Sec 5													Sec 54																				Sec 85		
Requires DLI to notify the Legislative Interim Committee if a board cannot operate in a cost effective manner	Sec 6																																				
Authorizes DLI to set administrative fees for the boards commensurate with costs and set late penalty fees.	Sec 5 & 12																																				
Allows boards to set board fees commensurate with costs	Sec 12	Sec 75, 77, 78	Sec 1, 121					Sec 4, 49	Sec 91					Sec 55				Sec 83		Sec 43	Sec 73					Sec 116, 117		Sec 108					Sec 105	Sec 80		Sec 65, 70		
Mandates DLI to monitor the boards' cash balances	Sec 6																	Sec 18, 19			Sec 71																
Clarifies DLI hires staff to provide support to the boards	Sec 9																																				
Allow for fee adjustments if cash balances exceed two times the board's appropriation	Sec 8																																				
Requires that DLI develop and standardize forms and processes	Sec 6 & 7	Sec 76			Sec 84			Sec 49, 50	Sec 91		Sec 81	Sec 111	Sec 61					Sec 21, 24, 51	Sec 42			Sec 45	Sec 99				Sec 106	Sec 108					Sec 103, 104, 105	Sec 80	Sec 94	Sec 67, 68		
Standardize license renewal process, define statutes, limit continuing education audits, and allow boards to conduct personal interviews	Sec 11, 13 & 15				Sec 84				Sec 92		Sec 33, 35, 81	Sec 113	Sec 59, 60	Sec 56				Sec 26, 38		Sec 44			Sec 97	Sec 40	Sec 47				Sec 101						Sec 79		Sec 84		
Eliminate mandate for licensee rosters																							Sec 98													Sec 64		
Remove references to 37-1, MCA, for Board of Horse Racing and Water Well Driller because those boards are not under the Department of Labor and Industry															Sec. 2 & 3																						
Clarifies language for ease and readability and corrects errous citation	Sec 8				Sec 82, 83, 85, 86, 87, 88, 89, 90	Sec 118, 119, 120	Sec 123							Sec 53				Sec 27, 28, 29, 30, 31, 51, 52	Sec. 5, 17, 41, 42, 122				Sec 97	Sec 124					Sec 100, 101	Sec 52		Sec 103		Sec 94	Sec 65, 67, 69		
Update Definitions	Sec 10 & 14																																				
Allows board members to sign subpoenas	Sec 16																																				

EXHIBIT 8
DATE 1-17-05
HB 182

Proposed Amendment to

HB 182

"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority -- fees -- third-party services. (1) ~~The~~ An applicant must meet the following requirements ~~must be met by applicants~~ for a journeyman plumber's license:

(a) a specific record of 5 years' experience legally obtained in the field of plumbing ~~of a character satisfactory to the board~~. This experience requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or pay records, or by completing an apprenticeship program meeting the standards set by the department ~~of labor and industry~~ or the United States department of labor, bureau of apprenticeship~~, or credit~~. Credit towards this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of an examination conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board.

(3) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.

(4) The department may use a third party to provide examination and grading services."

EXHIBIT 9
DATE 1-17-05
HB 182

MHA...An Association of Montana Health Care Providers

Testimony Before the House Business and Labor Committee

Pertaining to HB 182 Generally Revise Professional and Occupational Licensing Laws

January 17, 2005

MHA...An Association of Montana Health Care Providers
Testimony in Opposition of HB182

MHA opposes passage of HB 182, a bill that eliminates the ability of any licensing board to determine the kind of executive director who can best meet the needs of its licensees. MHA's primary concern is how this bill will affect the Board of Nursing's (BON) ability to effectively address the needs of our licensees and administer the Montana Nurse Practice Act.

As an association that serves most disciplines of the healthcare professions, MHA is in the unique position to interact with the licensing boards on behalf of our members. As a registered nurse for the past 25 years, I have seen many of the infinite number of issues that can arise in increasingly complex health care environments. Health care delivery is changing dramatically and rapidly, and exacerbating the challenges to the work environment for nursing practice is the nationwide shortage of nurses and other allied health professionals.

Nursing Practice and the Board of Nursing

As a regulatory authority, the BON has a mandate to ensure that the public is kept safe through the regulation of nursing practice. One function of the Board is to determine the scope of nursing practice. The scope of nursing practice is that which nurses are educated, competent and legally authorized to perform. The actual scope of an individual nurse's practice is directly influenced by the context from which the nursing takes place, by the needs of clients or patients, by the individual's education and competence, and by the policy requirements of the employer.

Nursing practice incorporates the application of knowledge with skill and judgment in response to an individual's health needs. Both the promotion and maintenance of health is the primary focus of nursing practice. Nursing practice is holistic in nature and care is not restricted to biological requirements; it also addresses psychological, social, cultural and spiritual needs. The focus of nursing practice therefore is the maintenance or attainment of optimal well being, or if this is not possible, establishing the environment for a peaceful death.

Clinical judgment or decision-making is an integral component of nursing practice. The degree of this decision-making is largely determined by the context in which it takes place. Nursing interventions are based on a thorough and individualized nursing assessment of patients/clients. Nursing care must be sensitive, relevant and responsive to patient/client needs and involve, as appropriate, the individual in the decision-making process. This practice must also have the ability to adjust, when and where needed, to changing circumstances.

The nurse practices in cooperation with the individual, family, friends, other health care personnel and the community. Nurses must also practice within the parameters of the state Nurse Practice Act, which is established by its BON. All of the State Boards of Nursing are members of the National Council of the State Boards of Nursing (NCSBN), which is a not-for-profit organization that provides leadership to advance regulatory excellence for public protection. The NCSBN has written its own Model Nurse Practice Act (MNPA), on which much of Montana's Nurse Practice Act is based. The Act's administrative rules are specifically designed to protect public health, safety, and welfare.

Article IV of the MNPA defines the authority for the BON and parameters for how it functions. Section 5(C)(8)(a)(1), Regarding Duties of the Board, states: "Appoint and employ a qualified registered nurse to serve as executive officer and approve such additional staff positions as

may be necessary, in the opinion of the board, to administer and enforce the provisions of the Act."

The Model Nursing Administrative Rules then describe what qualifications are appropriate for an Executive Officer (Director):

- Licensure in the state as a registered nurse
- Masters degree or higher from an accredited college or university
- At least <> years experience in nursing practice, including administration, teaching or supervision in nursing educational programs, supervision in health agencies or nursing regulation.

The rules continue on to state that the board may authorize employment of "such other employees, assistants, and agents as may be necessary, in the opinion of the Board, to administer and enforce the provisions of this Act."

It is a national standard that a BON be able to determine what qualifications are necessary for its staff, and particularly, the Executive Director. While not all of Montana's licensing Boards are staffed by like professionals, it is absolutely essential to the over 14,000 licensed nurses in Montana that their BON has experienced, knowledgeable registered nurses available for the myriad of questions faced every day in real-life practice.

During the past 21 months that Montana has been without a qualified registered nurse readily available at the BON, I have received numerous calls and emails requesting clarification of the NPA. I have many years of clinical experience, yet I was unable to answer several of the questions, and had to prevail upon the Board chair to help me determine the appropriate response. No matter how well either of us knew the rules, we had to apply the individual circumstances of the situation, and have several exchanges to arrive at an answer. Various Board members spent many hours every week dealing with these issues; this is not a tenable situation to continue into the future, which is what would occur if the Department of Labor and Industry (DLI) ever decided an RN license was not a necessary qualification for the BON's Executive Director.

Under current administrative rule, the BON establishes the qualifications of the Executive Director. However, new language in HB 182 removes this ability (and that of any other Board that feels a professional in its own field is necessary to serve the licensees) and makes the Board rules obsolete (p. 6, lines 14-15). It is absolutely essential that the DLI allow the Board of Nursing to statutorily establish (if its authority to make these rules is removed) the requirements for the number and type of professional staff it needs to serve its licensees, protect the public, and administer its own practice act. HB 182 merely states (p. 6, line 16) "the department <u>may</u> consult with the boards regarding recommendations for qualifications for personnel."

For MHA and its members, this language is not guarantee enough. Yes, DLI did consult w/the BON during its most recent hiring process. However, the next bureau chief or division administrator may not feel inclined to do so.

MHA strongly urges the committee to consider the implications of this addition to MCA 37-1-121. MHA has discussed this issue w/former Commissioner Keating, and DLI staff is also aware of our views. Establishing the qualifications of a position with this much impact and import on our largest group of licensed health care providers, and on the public, must be done (along with the department) by those who understand the depth and breadth of the practice.

EXHIBIT 10
DATE 1-17-05
HB 182

PROPOSED AMENDMENTS TO HB182 – REPRESENTATIVE DON ROBERTS

Section 11. Section 37-1-131, MCA, is amended to read:

(7) A board or, for programs without a board, the department may:

(d) require continuing education for licensure as provided in 37-1-306. If the board or department requires continuing education for continued licensure, the board or department may not audit or verify continuing education requirements as a precondition for renewing the license, certification, or registration. The board or department ~~may~~ shall conduct random audits of up to 20% of all licensees with renewed licenses for documentary verification of the continuing education requirement after the renewal period closes.

minimum of 50%

Section 110. Section 37-68-201, MCA, is amended to read:

"37-68-201. Organization -- meetings -- rulemaking power -- seal. (1) Each July, the board shall elect from its membership a president, vice president, and secretary-treasurer.

(2) The board shall meet quarterly and at other times ~~it~~ that the board considers necessary.

(3) The board may:

(a) adopt rules for the administration of this chapter~~,~~ and for the licensing of electrical contractors~~,~~ and ~~for the examination and licensing of~~ master and journeyman electricians;

(b) adopt a seal;

(c) cause the prosecution and enjoinder of persons violating this chapter."

Section 111. Section 37-68-304, MCA, is amended to read:

"37-68-304. Master electricians -- application -- qualifications -- ~~contents of~~ examination -- fees. (1) An applicant for a master electrician's license shall furnish written evidence of being a graduate electrical engineer of an accredited college or university and of having 1 year of practical electrical experience or that the applicant is a graduate of an electrical trade school and has at least 4 years of practical experience in electrical work or has had at least 5 years of practical experience in planning, laying out, or supervising the installation and repair of wiring, apparatus, or equipment for electrical light, heat, and power.

(2) ~~Applicants~~ An applicant for a license as a master electrician shall file an application on ~~forms prescribed by the board and~~ a form furnished by the department, submit appropriate fees, and satisfactorily pass an examination prescribed by the board. ~~The board shall, not less than 30 days prior to a scheduled examination,~~

~~notify each applicant that the evidence submitted with the applicant's application is sufficient to qualify to take the examination or that the evidence is insufficient and is rejected. If the application is rejected, the board shall set forth the reasons in the notice to the applicant. The place of examinations must be designated by the board, and examinations must be held at least once a year and at other times as, in the opinion of the board, the number of applicants warrants.~~

~~(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the national electric code;~~

~~(b) cost estimating for electrical installments;~~

~~(c) procurement and handling of materials needed for electrical installations and repair;~~

~~(d) reading blueprints for electrical work;~~

~~(e) drafting and layout of electrical circuits; and~~

~~(f) knowledge of practical electrical theory.~~

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~"

Section 112. Section 37-68-305, MCA, is amended to read:

"**37-68-305. Journeyman and residential electricians -- application -- qualifications -- contents of examination.** (1) An applicant for a journeyman electrician's license shall furnish written evidence of at least 4 ~~years'~~ years of apprenticeship in the electrical trade or 4 ~~years'~~ years of practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power. Applications for license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits.~~

(2) An applicant for a residential electrician's license shall furnish written evidence of at least 2 ~~years'~~ years of apprenticeship in the electrical trade or 2 ~~years'~~ years of practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power in residential construction consisting of less than five living units in a single structure. Application ~~for~~ license and notice to the applicant must be made and given as in the case of master electricians' licenses. ~~The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:~~

~~(a) the Ohm's law;~~

~~(b) the national electric code; and~~

~~(c) layout and practical installation of electrical circuits."~~

Section 113. Section 37-68-312, MCA, is amended to read:

"37-68-312. Electrical contractor's license -- application ~~—issuance~~ -- fees ~~—renewal.~~ Each electrical contractor shall, on or before the date set by department rule, file with the department an application ~~in writing~~ together with the appropriate fees for each firm operated by the electrical contractor in this state ~~for renewal of the license. A license may not be issued or renewed until the applicant meets the licensure requirements and has paid to the department a license fee set by the board for each firm operated by the electrical contractor. Licenses must bear the date of issuance or renewal. A license must be renewed for a 3-year period upon payment to the department of the license fee on or before the renewal date and upon meeting the requirements set by board rule~~."

Section 114. Section 37-69-304, MCA, is amended to read:

"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority -- ~~fees — third-party services.~~ (1) The following requirements must be met by applicants for a journeyman plumber's license:

(a) a specific record of 5 ~~years'~~ years of experience in the field of plumbing of a character satisfactory to the board. This experience requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or pay records, or by completing an apprenticeship program meeting the standards set by the department ~~of labor and industry~~ or the United States department of labor, bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of an examination ~~conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing prescribed by the board~~.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board.

~~(3) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.~~

~~(4) The department may use a third party to provide examination and grading services.~~"

Section 115. Section 37-69-305, MCA, is amended to read:

"**37-69-305. Qualifications of applicants for master plumber's license -- restriction on authority ~~-- fees -- third-party services~~.** (1) The following requirements must be met by an applicant for a master plumber's license:

(a) evidence of 4 ~~years'~~ years of experience as a licensed journeyman plumber in the field of plumbing, verified by time or pay records of actual plumbing experience;

(b) evidence of 3 ~~years'~~ years of experience working with a licensed master plumber or in a supervisory capacity in the field of plumbing, which may run concurrently with the requirement in subsection (1)(a); and

(c) satisfactory completion of an examination ~~for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing prescribed by the board~~.

(2) For purposes of subsection (1), ~~a year's~~ 1 year of experience is 1,500 hours or more of work in a continuous 12-month period.

(3) A master plumber may not allow the master plumber's license to be used by any person or firm, corporation, or business other than the master plumber's own for the purpose of obtaining permits or for doing plumbing work under the license.

~~(4) The board shall determine by rule the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.~~

~~(5) The department may use a third party to provide examination and grading services.~~"

Section 116. Section 37-69-306, MCA, is amended to read:

"**37-69-306. Examination -- issuance of license.** (1) An applicant for a license to work in the field of plumbing ~~shall be examined as to his qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine his skill and qualifications as a master plumber or journeyman plumber~~.

~~(2) The applicant~~ must, upon successfully passing ~~the~~ an examination prescribed by the board, ~~shall~~ be issued a license authorizing ~~him~~ the applicant to engage in the field of plumbing as a master plumber or journeyman plumber in the state of Montana.

~~(3)~~(2) In the case of a firm or corporation, the examination and issuance of a license to an individual of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master plumbers but not as to journeyman plumbers. ~~No~~ An individual, firm, or corporation may not do the work of a master plumber unless licensed under this chapter.

~~(4)~~(3) In addition to the temporary permits authorized in 37-1-305, the ~~board~~ department may, ~~on a case-by-case basis at the board's discretion and~~ in accordance with criteria determined by ~~the board~~ department rule, renew a temporary practice permit for a person who fails the first license examination for which the person is eligible ~~but who submits a temporary practice permit renewal application to the board stating that the person intends to retake the license examination on the next available date~~."

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 1-17-05

NAME	PRESENT	ABSENT	EXCUSED
REP. JIM KEANE, CHAIR.			✓
REP. KATHLEEN GALVIN-HALCRO, VICE CHAIR	✓		
REP. JOE McKENNEY, VICE CHAIR	✓		
REP. ELSIE ARNTZEN	✓		
REP. BOB BERGREN	✓		
REP. TIM DOWELL			✓
REP. KEVIN FUREY	✓		
REP. DAVE GALLIK	✓		
REP. RALPH HEINERT	✓		
REP. LLEW JONES			✓
REP. MIKE JOPEK	✓		
REP. HARRY KLOCK	✓		
REP. SCOTT MENDENHALL	✓		
REP. MIKE MILBURN	✓		
REP. DON ROBERTS	✓		
REP. WAYNE STAHL	✓		
REP. DAN VILLA			✓
REP. JONATHAN WINDY BOY	✓		

VISITORS REGISTER

Montana
House of Representatives
Business & Labor Committee

Bill Number: HB 203 Date: 1/17/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Don Hargrove	MASP	X Amend		
JEANNIE WORSECH	DLI			—
Jane Egan	MSCPA	X		
Angus Maciver	LAD			✓
Bill FITZGERALD	Self		X	
Mona Jamison	PT Assoc - with amendment Boyd Andrew	✓		
Peter Wolfman Rot	Self		X	
Pat Melby	Rimrock Foundation	✓	w/amendments	
Jim Smith	Pharm Assoc		✓ AMEND	
Casey Blumenthal	MHA	✓ Eamend		
Stuart Doggett	MT Veterinary Medical Assoc.	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

VISITORS REGISTER

Montana
House of Representatives
Business & Labor Committee

Bill Number: HB 182 Date: 1/17/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
JEANNIE BORSECH	DLI			
Keith Allen	IBEW		X	
Jane Egan	MSCPA	X		
John Forkan	St Assn Plumbers & Fitters		X	
Angus Maciver	LAD.			
GENE FEDERSON	LABORER'S UNION		X	
Mona Jamieson	MT Assn Boyd Andrew	✓		
Rae Hughes	Mt Health Care Assn			
J Nelson	MT Skill Body Trades		X	
C Blumenthal	MHA		X	
Stuart Doggett	MT Veterinary Medical Assoc	✓		
Vince Driscoll	AFL-CIO		✓ amend	
Keith Kelly	Dept. of Labor & Industry	X		
Jim Brown	DLI	✓		
Dan Hargrove	MASP	Oppose		
Carl Schweitzer	Associated Plumber	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

VISITORS REGISTER

Montana

House of Representatives

Business & Labor Committee

Bill Number: HB 203 Date: 1/17/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Holly Franz	MT Society of CPAs	X		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JIM KEANE**, on February 2, 2005 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Jim Keane, Chairman (D)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Joe McKenney, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Bob Bergren (D)
Rep. Tim Dowell (D)
Rep. Kevin T. Furey (D)
Rep. Dave Gallik (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Mike Jopek (D)
Rep. Harry Klock (R)
Rep. Scott Mendenhall (R)
Rep. Mike Milburn (R)
Rep. Don Roberts (R)
Rep. Wayne Stahl (R)
Rep. Jonathan Windy Boy (D)

Members Excused: Rep. Dan Villa (D)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:
Hearing & Date Posted: HB 427, 2/24/2005; HB 422, 2/24/2005; HB 331, 2/24/2005
Executive Action: HB 427, HB 182, HB 345

HEARING ON HB 427

Opening Statement by Sponsor:

REP. WANDA GRINDE (D), HD 48, opened the hearing on **HB 427,** Revise contributions to law enforcement group insurance.
00:03:37

Proponents' Testimony:
00:05:11 Jerry Williams, Montana Police Protective Association

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
00:06:24

Closing by Sponsor:
00:08:30

HEARING ON HB 422

Opening Statement by Sponsor:

REP. DAVE GALLIK (D), HD 79, opened the hearing on **HB 422,** Liveable wage for families.
00:09:08

Proponents' Testimony:
00:13:27 Darrell Holzer, AFL-CIO
00:16:54 Gene Fenderson, Montana Laborers Union
00:19:18 Bob Ream, Montana Democratic Party
00:21:09 Todd Lovshin, MEA-MFT

Opponents' Testimony:
00:22:34 Mike McGinley, Montana Economic Association
00:24:23 Brad Griffin, Montana Retail Association
00:27:06 Charles Brooks, Billings Chamber of Commerce
00:33:16 Barbara Ranf, Montana Chamber of Commerce
EXHIBIT(buh26a01)

Informational Testimony:
00:39:36 John Andrew, Department of Labor

Questions from Committee Members and Responses:
00:39:52

Closing by Sponsor:
00:52:20

HEARING ON HB 331

Opening Statement by Sponsor:

REP. DAVID WANZENRIED (D), HD 97, opened the hearing on **HB 331,** Joint underwriting association for medical malpractice insurance.
01:14:16

Proponents' Testimony:
01:19:08 Pat Melby, Montana Medical Association
EXHIBIT(buh26a02)
EXHIBIT(buh26a03)
01:35:09 Tom Ebzery, Hospital Association
01:37:34 John Flink, Montana Hospital Association
01:39:01 Patrick Driscoll, State Auditor's Office

Opponents' Testimony:
01:39:47 Jacqueline Lenmark, Insurance Association
EXHIBIT(buh26a04) Larry Kibbee, Property Casualty Insurers Association (written testimony only)

Informational Testimony: None

Questions from Committee Members and Responses:
01:47:39

Closing by Sponsor:
02:22:25

EXECUTIVE ACTION ON HB 427

Motion/Vote: REP. BERGREN moved that HB 427 DO PASS. Motion carried 17-1 by voice vote with REP. MENDENHALL voting no. REPS. DOWELL, FUREY, GALVIN-HALCRO, VILLA and WINDY BOY voted by proxy.

REP. FUREY re-entered the room.

EXECUTIVE ACTION ON HB 182

Motion: REP. BERGREN moved that HB 182 DO PASS.

Discussion:
02:42:03

Motion: REP. BERGREN moved that HB 182 BE AMENDED.

Discussion:
02:43:24
EXHIBIT(buh26a05)

Vote: Motion carried unanimously by voice vote. REPS. DOWELL, GALVIN-HALCRO, VILLA and WINDY BOY voted by proxy.

Motion: REP. ROBERTS moved that HB 182 DO PASS AS AMENDED.

Discussion:
02:45:57

Vote: Motion carried 17-1 by voice vote with REP. GALLIK voting no. REPS. DOWELL, GALVIN-HALCRO, VILLA and WINDY BOY voted by proxy.

EXECUTIVE ACTION ON HB 345

Motion: REP. GALLIK moved that HB 345 DO PASS.

Discussion:
02:48:40

Motion: REP. MENDENHALL moved that HB 345 BE AMENDED.

Discussion:
02:49:25
EXHIBIT(buh26a06)

Vote: Motion carried 17-1 by voice vote. REP GALLIK voted no. REPS. DOWELL, GALVIN-HALCRO, VILLA and WINDY BOY voted by proxy.

Motion: **REP. GALLIK moved that HB 345 DO PASS AS AMENDED.**

Discussion:
02:57:21

Vote: **Motion carried unanimously by voice vote. REPS. DOWELL, GALVIN-HALCRO, VILLA and WINDY BOY voted by proxy.**

ADJOURNMENT

Adjournment: 11:00 A.M.

_____
REP. JIM KEANE, Chairman

_____
KYANNE KELLY, Secretary

JK/kk

Additional Exhibits:

EXHIBIT(buh26aad0.PDF)

EXHIBIT 5
DATE 2-2-05
HB 182

Amendments to House Bill No. 182
1st Reading Copy

Requested by Representative Bob Bergren

For the House Business and Labor Committee

Prepared by Bartley Campbell
February 2, 2005 (8:40am)

1. Title, page 1, line 16.
Strike: "REQUIRING BOARD OF HORSERACING REVIEW OF IMPACTS;"

2. Page 1, line 24.
Following: "37-6-304,"
Insert: "37-7-104,"

3. Page 1, line 26.
Strike: "37-16-404,"
Strike: "37-18-303,"

4. Title, page 2, line 2.
Following: "37-68-305,"
Insert: "37-68-307, 37-68-310,"

5. Title, page 2, line 6.
Following: "37-16-403,"
Insert: "37-16-404,"

6. Title, page 2, line 11.
Following: "37-67-318,"
Strike: "37-68-307, 37-68-310,"

7. Page 4, line 28.
Following: "processing"
Insert: "routine"
Following: "licenses"
Insert: "as defined by a board"

8. Page 6, line 16.
Strike: "may"
Insert: "shall"

9. Page 6, line 17.
Strike: "personnel"
Insert: "executive or executive director positions"

10. Page 8, line 13.
Strike: "20%"
Insert: "50%"

11. Page 26, following line 3.
Insert: "**Section 37.** Section 37-7-104, MCA, is amended to read:

"**37-7-104. Qualifications of employee hired to assist board.** A person hired by the department to enter and inspect an establishment under this chapter~~, to examine the books of a manufacturer, druggist, storekeeper, wholesaler, pharmacist, or intern, to assist in a prosecution under this chapter, and to assist the board in supervising internships, reciprocity agreements, professional correspondence, and examinations shall~~ must be:

(1) a citizen of the United States and a resident of this state; and

(2) a pharmacist registered under this chapter~~, with at least 5 years of practical experience~~."

{*Internal References to 37-7-104: None.*}"
Renumber: subsequent sections

12. Page 38, line 21 through page 39, line 28.
Strike: section 54 in its entirety
Renumber: subsequent sections

13. Page 42, line 7 through line 24.
Strike: section 58 in its entirety
Renumber: subsequent sections

14. Page 75, line 21.
Strike: "may"
Insert: "shall"

15. Page 75, line 22.
Strike: "and"
Insert: ","
Following: "contractors~~,~~"
Insert: ","

16. Page 75, line 23.
Following: "~~of~~"
Insert: "for the examination of"

17. Page 75, line 28.
Following: "~~contents of~~"
Insert: "contents of"

18. Page 75, line 30.
Following: "year of"
Insert: "legally obtained"

19. Page 76, line 1.
Following: "years of"
Insert: "legally obtained"

20. Page 76, line 2.
Following: "years of"
Insert: "legally obtained"

21. Page 76, following line 21.
Insert: "The board shall, not less than 30 days prior to a scheduled examination, notify each applicant that the evidence submitted with the applicant's application is sufficient to qualify to take the examination or that the evidence is insufficient and is rejected. If the application is rejected, the board shall set forth the reasons in the notice to the applicant. The place of examinations must be designated by the board, and examinations must be held at least once a year and at other times as, in the opinion of the board, the number of applicants warrants.

(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:

(a) the national electric code;

(b) cost estimating for electrical installments;

(c) procurement and handling of materials needed for electrical installations and repair;

(d) reading blueprints for electrical work;

(e) drafting and layout of electrical circuits; and

(f) knowledge of practical electrical theory.

(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs."

22. Page 76, line 26.
Following: "or 4 ~~years~~ years of"
Insert: "legally obtained"

23. Page 77, line 3.
Following: "~~circuits.~~"
Insert: "The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:
(a) the Ohm's law;
(b) the national electric code; and
(c) layout and practical installation of electrical circuits."

24. Page 77, line 5.
Following: "~~years~~ years of"
Insert: "legally obtained"

25. Page 77, line 13.
Following: "~~circuits.~~"
Insert: "The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:
(a) the Ohm's law;
(b) the national electric code; and
(c) layout and practical installation of electrical circuits."

26. Page 77, following line 13.
Insert: "Section 112. Section 37-68-307, MCA, is amended to read:

"37-68-307. Examination procedure -- third-party services ~~-- issuance of master, journeyman, or residential electrician's license -- expiration.~~ ~~(1)~~ To ensure impartiality, the examination for either the residential, master's, or journeyman's license must be administered by the department. The department may use a third party to provide examination and grading services. The examination passing grade is 75%.

~~(2) If it is determined that the applicant has passed the examination, the department shall issue to the applicant a license that authorizes the licensee to engage in the business, trade, or calling of a residential electrician, journeyman~~

~~electrician, or master electrician.~~

~~(3) Each original license expires on the renewal date established by the department by rule if it is not more than 3 years after the date of issuance.~~"

{*Internal References to 37-68-307: None.*}"

Insert: "Section 113. Section 37-68-310, MCA, is amended to read:

"37-68-310. ~~License renewal period -- renewal~~ Renewal of lapsed licenses. (1) ~~Licenses of residential electricians, journeyman electricians, or master electricians, unless they have been suspended or revoked by the board or unless the department changes the duration of the renewal period, must be renewed for a period of 3 years by the department on application for renewal made to the department on or before the renewal date set by department rule and on the payment of a renewal fee. If application for renewal is not made on or before the renewal date, an additional fee prescribed by board rule must be paid.~~ It is unlawful for a person who refuses or fails to pay the renewal fee to practice electrical work in this state. A person with a lapsed license may be issued a renewal license without examination if the applicant pays the original renewal fee and any delinquency fee within 1 year of the license expiration date. Subject to subsection (2), a lapsed license that is not renewed within 1 year following its expiration date may not be renewed unless the applicant passes the examination and pays the fee required for an original license.

(2) This section may not be interpreted to conflict with 37-1-138."

{*Internal References to 37-68-310: None.*}"

Renumber: subsequent sections

27. Page 77, line 29.
Following: "of"
Insert: "legally obtained"

28. Page 78, line 8.
Following: "board"
Insert: "conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing"

29. Page 78, line 24.
Following: "board"
Insert: "for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in

the field of plumbing"

30. Page 79, line 9.
Following: "~~applicant~~"
Insert: "must be examined as to the applicant's qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine the applicant's skill and qualifications as a master plumber or journeyman plumber.
(2) The applicant"
Renumber: subsequent subsections

31. Page 79, line 16.
Strike: "department"
Insert: "board"

32. Page 79, line 17.
Following: "~~and~~"
Insert: "on a case-by-case basis at the board's discretion"

33. Page 79, lines 17 through 18.
Strike: "department" on line 17 through "rule" on line 18
Insert: "the board"

34. Page 83, line 20.
Following: "37-16-403,"
Insert: "37-16-404,"

35. Page 83, line 25.
Strike: "37-68-307, 37-68-310,"

- END -

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 2-2-05

NAME	PRESENT	ABSENT	EXCUSED
REP. JIM KEANE, CHAIR.	✓		
REP. KATHLEEN GALVIN-HALCRO, VICE CHAIR	✓		
REP. JOE McKENNEY, VICE CHAIR	✓		
REP. ELSIE ARNTZEN	✓		
REP. BOB BERGREN	✓		
REP. TIM DOWELL	✓		
REP. KEVIN FUREY	✓	✓	
REP. DAVE GALLIK	✓		
REP. RALPH HEINERT	✓		
REP. LLEW JONES	✓		
REP. MIKE JOPEK	✓		
REP. HARRY KLOCK	✓		
REP. SCOTT MENDENHALL	✓		
REP. MIKE MILBURN	✓		
REP. DON ROBERTS	✓		
REP. WAYNE STAHL	✓		
REP. DAN VILLA			✓
REP. JONATHAN WINDY BOY	✓		

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 182** (first reading copy -- white) **do pass as amended**.

Signed: _____
Representative Jim Keane, Chair

And, that such amendments read:

1. Title, page 1, line 16.
Strike: "REQUIRING BOARD OF HORSERACING REVIEW OF IMPACTS;"

2. Page 1, line 24.
Following: "37-6-304,"
Insert: "37-7-104,"

3. Page 1, line 26.
Strike: "37-16-404,"
Strike: "37-18-303,"

4. Title, page 2, line 2.
Following: "37-68-305,"
Insert: "37-68-307, 37-68-310,"

5. Title, page 2, line 6.
Following: "37-16-403,"
Insert: "37-16-404,"

6. Title, page 2, line 11.
Following: "37-67-318,"
Strike: "37-68-307, 37-68-310,"

Committee Vote:
Yes 17, No 1.

261255SC.hkh
2/2/05
jbn

7. Page 4, line 28.
Following: "processing"
Insert: "routine"
Following: "licenses"
Insert: "as defined by a board"

8. Page 6, line 16.
Strike: "may"
Insert: "shall"

9. Page 6, line 17.
Strike: "personnel"
Insert: "executive or executive director positions"

10. Page 8, line 13.
Strike: "20%"
Insert: "50%"

11. Page 26, following line 3.
Insert: "Section 37. Section 37-7-104, MCA, is amended to read:

"37-7-104. Qualifications of employee hired to assist board. A person hired by the department to enter and inspect an establishment under this chapter~~, to examine the books of a manufacturer, druggist, storekeeper, wholesaler, pharmacist, or intern, to assist in a prosecution under this chapter, and to assist the board in supervising internships, reciprocity agreements, professional correspondence, and examinations shall~~ must be:

(1) a citizen of the United States and a resident of this state; and

(2) a pharmacist registered under this chapter~~, with at least 5 years of practical experience~~.""
Renumber: subsequent sections

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Strike: section 54 in its entirety
Renumber: subsequent sections

13. Page 42, line 7 through line 24.
Strike: section 58 in its entirety
Renumber: subsequent sections

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Insert: "shall"

15. Page 75, line 22.
Strike: "and"
Insert: ","
Following: "contractors,"
Insert: ","

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Following: "~~of~~"
Insert: "for the examination of"

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Following: "~~contents of~~"
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Following: "year of"
Insert: "legally obtained"

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Following: "years of"
Insert: "legally obtained"

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Following: "years of"
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(3) The examination must consist of at least 30 questions designed to fairly test the applicant's knowledge and the

applicant's technical application in the following subjects:
(a) the national electric code;
(b) cost estimating for electrical installments;
(c) procurement and handling of materials needed for electrical installations and repair;
(d) reading blueprints for electrical work;
(e) drafting and layout of electrical circuits; and
(f) knowledge of practical electrical theory.
(4) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs."

22. Page 76, line 26.
Following: "or 4 ~~years'~~ years of"
Insert: "legally obtained"

23. Page 77, line 3.
Following: "~~circuits.~~"
Insert: "The examination for a journeyman's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:
(a) the Ohm's law;
(b) the national electric code; and
(c) layout and practical installation of electrical circuits."

24. Page 77, line 5.
Following: "~~years'~~ years of"
Insert: "legally obtained"

25. Page 77, line 13.
Following: "~~circuits.~~"
Insert: "The examination for a residential electrician's license must consist of at least 30 questions designed to fairly test the applicant's knowledge and the applicant's technical application in the following subjects:
(a) the Ohm's law;
(b) the national electric code; and
(c) layout and practical installation of electrical circuits."

26. Page 77, following line 13.
Insert: "Section 112. Section 37-68-307, MCA, is amended to read:

"37-68-307. Examination procedure -- third-party services ~~-- issuance of master, journeyman, or residential electrician's license -- expiration.~~ ~~(1)~~ To ensure impartiality, the examination for either the residential, master's, or journeyman's license must be administered by the department. The department may use a third party to provide examination and grading services. The examination passing grade is 75%.

~~(2) If it is determined that the applicant has passed the examination, the department shall issue to the applicant a license that authorizes the licensee to engage in the business, trade, or calling of a residential electrician, journeyman electrician, or master electrician.~~

~~(3) Each original license expires on the renewal date established by the department by rule if it is not more than 3 years after the date of issuance.~~""

Insert: "Section 113. Section 37-68-310, MCA, is amended to read:

"37-68-310. ~~License renewal period -- renewal~~ Renewal of lapsed licenses. (1) ~~Licenses of residential electricians, journeyman electricians, or master electricians, unless they have been suspended or revoked by the board or unless the department changes the duration of the renewal period, must be renewed for a period of 3 years by the department on application for renewal made to the department on or before the renewal date set by department rule and on the payment of a renewal fee. If application for renewal is not made on or before the renewal date, an additional fee prescribed by board rule must be paid.~~ It is unlawful for a person who refuses or fails to pay the renewal fee to practice electrical work in this state. A person with a lapsed license may be issued a renewal license without examination if the applicant pays the original renewal fee and any delinquency fee within 1 year of the license expiration date. Subject to subsection (2), a lapsed license that is not renewed within 1 year following its expiration date may not be renewed unless the applicant passes the examination and pays the fee required for an original license.

(2) This section may not be interpreted to conflict with 37-1-138.""

Renumber: subsequent sections

27. Page 77, line 29.
Following: "of"
Insert: "legally obtained"

28. Page 78, line 8.
Following: "board"
Insert: "conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods

employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing"

29. Page 78, line 24.
Following: "board"
Insert: "for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing"

30. Page 79, line 9.
Following: "~~applicant~~"
Insert: "must be examined as to the applicant's qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine the applicant's skill and qualifications as a master plumber or journeyman plumber.
(2) The applicant"
Renumber: subsequent subsections

31. Page 79, line 16.
Strike: "department"
Insert: "board"

32. Page 79, line 17.
Following: "~~and~~"
Insert: "on a case-by-case basis at the board's discretion"

33. Page 79, lines 17 through 18.
Strike: "department" on line 17 through "rule" on line 18
Insert: "the board"

34. Page 83, line 20.
Following: "37-16-403,"
Insert: "37-16-404,"

35. Page 83, line 25.
Strike: "37-68-307, 37-68-310,"

- END -

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 345** (first reading copy -- white) **do pass as amended.**

Signed: _____
Representative Jim Keane, Chair

And, that such amendments read:

1. Title, line 8.
Strike: "AND" through "DATE"

2. Page 1, line 26 through line 28.
Strike: section 3 in its entirety

- END -

Committee Vote:
Yes 18, No 0.

261254SC.hkh
2/2/05

HOUSE STANDING COMMITTEE REPORT

February 2, 2005

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 427** (first reading copy -- white) **do pass**.

Signed: _____
Representative Jim Keane, Chair

- END -

Committee Vote:
Yes 17, No 1.

261125SC.hkh
2/2/05
jbn

VISITORS REGISTER

Montana

House of Representatives

Business & Labor Committee

Bill Number: HB 331 Date: 2/2/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Jarvy Kibbee	PCI		✓	
Mike Foster	SVH ...	✓		
Greg VanHorssen	State Fund		✓	
Roger McGlenn	IFAM		✓	
Tom Ebzery	SV, H Rosary, St Jones	✓		
Jacqueline Lenmark	AIA		✓	
Aidan Mylne	Employers Insurance Group		✓	
FRANK COTE	FARMERS UNION MUT. INS CO		✓	
DWIGHT EASTON	FIG		✓	
Patrick M. Driscoll	State Auditor	✓		
Mike Jamison	mt Orthopedic Society	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

VISITORS REGISTER

Montana
House of Representatives
Business & Labor Committee

Bill Number: HB 422 Date: 2/2/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Darrell Holzer	MT AFL-CIO	X		
Charles Brooks	Billings Chamber		X	
Mike McGinley	Beaverhead Co	X		
DENE FENDERSON	LABORERS UNION PLC	X		
Bob Ream	MT Democratic Party	X		
TODD Lovshin	MEA-MFT	X		
Linda Gryczan	MT Gov's Lobby	X		
Barbara Ranf	MT Chamber		X	
John Youngberg	State Farm		X	
Carl Schweitzer	Bozo Kal Chamber		X	

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

VISITORS REGISTER

Montana
House of Representatives
Business & Labor Committee

Bill Number: HB 427 Date: 2/2/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Tom Schneider	MPEA	X		
Jim Kembel	MT Assoc of Chiefs of Police	X		
Bill Dove	MPPA	X		
Dave Cardillo	MPPA	X		
Jerry Williams	MT Police Protective Assoc.	X		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on March 8, 2005 at 9:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:
Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Duane Grimes (R)
Sen. Dave Lewis (R)
Sen. Glenn Roush (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 182, 3/4/2005; HB 203, 3/4/2005; HB 160, 3/4/2005
Executive Action:	HB 160, HB 203, HB 188

00:00:01

HEARING ON HB 182

Opening Statement by Sponsor:

REP. DON ROBERTS (R), HD 56, opened the hearing on **HB 182,** Generally revise professional and occupational licensing laws.

Proponents' Testimony:

00:03:10 **Mr. Jim Brown, Administrator, Business Standards Division, Department of Labor and Industry**

EXHIBIT(bus51a01)

00:09:55 **Mr. Keith Allen, International Brotherhood of Electrical Workers**
00:10:33 **Mr. J.D. Lynch, Montana State Building Trades**
00:10:48 **Mr. Carl Schweitzer, Associated Plumbing and Heating Contractors**
00:12:41 **Mr. Jim Smith, Montana Pharmacy Association**
00:13:22 **Ms. Mary McCue, Executive Director, Montana Dental Association**
00:13:48 **Ms. Mona Jamison, Montana Physical Therapy Association**
00:14:04 **Ms. Rose Hughes, Executive Director, Montana Health Care Association**
00:14:37 **Mr. John Flink, Montana Health Association**

Opponents' Testimony:

00:14:59 **Ms. Marti Wangen, Montana Dental Hygienists Association**

EXHIBIT(bus51a02)
EXHIBIT(bus51a03)

Informational Testimony:

00:15:44 **Mr. Angus Maciver, Legislative Audit Division**

00:16:31
Questions from Committee Members and Responses:

Ms. Lisa Addington, Bureau Chief, Healthcare Licensing Bureau

00:33:55
Closing by Sponsor:

SEN. SHOCKLEY will carry HB 182 on the Senate Floor.

00:35:32
Questions from Committee Members and Responses:

Ms. Jeannie Worsech, Board of Medical Examiners

00:37:06

HEARING ON HB 203

Opening Statement by Sponsor:

REP. DON ROBERTS (R), HD 56, opened the hearing on **HB 203,** Clarify responsibility of boards and department of labor and industry.

EXHIBIT(bus51a04)

Proponents' Testimony:

00:40:39 **Mr. Jim Brown, Administrator, Business Standards Division, Department of Labor and Industry**
00:47:37 **Mr. Jim Smith, Montana Pharmacy Association**
00:48:01 **Mr. Patrick Melby, Rimrock Foundation**
00:49:13 **Ms. Mona Jamison, Montana Physical Therapy Association**
00:49:32 **Mr. Don Hargrove, Montana Addiction Services Providers**
00:49:55 **Ms. Gloria Hermanson, Academy of Opthamologists**
00:50:34 **Ms. Mary McCue, Executive Director, Montana Dental Association**
00:50:49 **Mr. John Flink, Montana Health Association**
00:50:58 **Ms. Holly Franz, Montana Society of Certified Public Accountants**

Opponents' Testimony: None.

Informational Testimony:

00:51:32 **Mr. Angus Maciver, Legislative Audit Division**

00:51:58
Questions from Committee Members and Responses:

Ms. Jill Caldwell, Bureau Chief, Business and Occupational Licensing
Mr. Kevin Braun, Department of Labor and Industry
Ms. Sharon Howard, Montana Nurses Association

Ms. Lisa Addington, Bureau Chief, Healthcare Licensing Bureau

01:00:51
Closing by Sponsor:

SEN. SHOCKLEY will carry HB 203 on the Senate Floor.

01:03:52

HEARING ON HB 160

Opening Statement by Sponsor:

REP. HAL JACOBSON (D), HD 82, opened the hearing on **HB 160,** Revise building code administration, enforcement provisions.

Proponents' Testimony:

01:07:17 **Mr. Jim Brown, Administrator, Business Standards Division, Department of Labor and Industry**

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

01:11:43
Closing by Sponsor:

SEN. TROPILA will carry HB 160 on the Senate Floor.

01:13:04

EXECUTIVE ACTION ON HB 160

Motion/Vote: SEN. TROPILA moved that HB 160 BE CONCURRED IN. Motion carried unanimously by voice vote.

01:13:57

EXECUTIVE ACTION ON HB 203

Motion/Vote: SEN. SMITH moved that HB 203 BE CONCURRED IN. Motion carried unanimously by voice vote.

01:14:46

DISCUSSION ON HB 156

EXHIBIT(bus51a05)

01:17:32

EXECUTIVE ACTION ON HB 188

Motion: SEN. SQUIRES moved that HB 188 BE CONCURRED IN.

Discussion:

EXHIBIT(bus51a06)

Motion/Vote: SEN. SQUIRES moved that HB 188 BE AMENDED WITH HB018802.APM. Motion carried unanimously by voice vote.

Motion: SEN. SQUIRES moved that HB 188 BE CONCURRED IN AS AMENDED.

Discussion:

Vote: Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 11:00 A.M.

_____
SEN. VICKI COCCHIARELLA, Chairman

_____
ANNIE GLOVER, Secretary

VC/ag

Additional Exhibits:

EXHIBIT(bus51aad0.PDF)

BUSINESS & LABOR
EXHIBIT NO. 1
DATE 3/8/05
BILL NO. HB 182

HB 182	Change Affects All Licensing Boards and Programs	ALTERNATIVE HEALTH CARE	ATHLETICS	BARBER/COSMETOLOGY	BLASTERS	BOILERS	CHIROPRACTOR	CLINICAL LAB SCIENCE PRACTITIONERS	DENTISTRY	ELECTRICIANS	FUNERAL SERVICE	HEARING AID DISPENSERS	HORSE RACING	LANDSCAPE ARCHITECTS	LICENSED ADDICTION COUNSELORS	MEDICAL EXAMINERS	NURSING	NURSING HOME ADMINISTRATORS	OCCUPATIONAL THERAPY	OPTOMETRY	OUTFITTERS	PHARMACY	PHYSICAL THERAPY	PLUMBERS	PRIVATE INVESTIGATORS AND PATROL OFFICERS	PROFESSIONAL ENGINEERS AND LAND SURVEYORS	PSYCHOLOGISTS	PUBLIC ACCOUNTANTS	RADIOLOGIC TECHNOLOGISTS	REALTY REGULATION	RESPIRATORY CARE PRACTITIONERS	SANITARIANS	SOCIAL WORK & PROFESSIONAL COUNSELING	WATER WELL DRILLERS	VETERINARIANS
Authorizes DLI to issue routine licenses for the boards	Sec 6						Sec 51	Sec 91								Sec 20, 21, 73								Sec 117		Sec 108									
tandardize statutes by repealing specific language setting examination and licensure qualifications to allow boards to address these areas in rule	Sec 11	Sec 74, 75, 76		Sec 81, 86			Sec 50		Sec 32, 34	Sec 109, 110, 111, 112		Sec 54		Sec 106	Sec 92	Sec 22, 23, 25, 52, 73			Sec 70, 71	Sec 46, 47		Sec 38, 39, 40	Sec 48, 49	Sec 115, 116, 117		Sec 107	Sec 56		Sec 53	Sec 101, 103	Sec 78	Sec 93	Sec 63, 67, 69		Sec 57
Authorizes DLI to contract for examination administration and grading	Sec 8																																Sec 64		
Requires DLI to notify the Legislative Interim Committee if a board cannot operate in a cost effective manner	Sec 6																																		
uthorizes DLI to set administrative fees for the boards commensurate with costs and set late penalty fees.	Sec 6 & 12																																		
Allows boards to set board fees commensurate with costs	Sec 12	Sec 74, 76, 77	Sec 1, 122				Sec 4, 50	Sec 90				Sec 55				Sec 62		Sec 44	Sec 72					Sec 116, 118		Sec 107				Sec 104			Sec 65, 69		
Mandates DLI to monitor the boards' cash balances	Sec 6																																		
Clarifies DLI hires staff to provide support to the boards	Sec 9															Sec 18, 19			Sec 70			Sec 37													
llow for fee adjustments if cash balances exceed two times the board's appropriation	Sec 6																																		
Requires that DLI develop and standardize forms and processes	Sec 6 & 7	Sec 75		Sec 83			Sec 50, 51	Sec 90	Sec 80	Sec 110	Sec 60					Sec 21, 24, 52	Sec 43			Sec 46	Sec 98				Sec 105	Sec 107				Sec 102, 103, 104	Sec 79	Sec 93	Sec 66, 67		
Standardize license renewal process, define statutes, limit continuing education audits, and allow boards to conduct personal interviews	Sec 11, 13 & 15			Sec 83				Sec 91	Sec 33, 35, 80	Sec 113, 114	Sec 58, 59	Sec 55				Sec 26, 36		Sec 45			Sec 96	Sec 41	Sec 48				Sec 100			Sec 78		Sec 83		
Eliminate mandate for licensee rosters																					Sec 97											Sec 63		
Remove references to 37-1, MCA, for Board of Horse Racing and Water Well Driller because those boards are not under the Department of Labor and Industry													Sec. 2 & 3																				Sec 94, 95	
Clarifies language for ease and readability and corrects erroneous citation	Sec 8			Sec 81, 82, 84, 85, 86, 87, 88, 89	Sec 119, 120, 121	Sec 124						Sec 54				Sec 27, 28, 29, 30, 31, 52, 61	Sec. 5, 17, 42, 43, 123				Sec 96	Sec 125					Sec 99, 100	Sec 53	Sec 102		Sec 93	Sec 64, 66, 68		Sec 125
Update Definitions	Sec 10 & 14																																		
Allows board members to sign subpoenas	Sec 16																																		

BUSINESS & LABOR
EXHIBIT NO. 3
DATE 3/8/05
BILL NO. HB182

Draft Amendments

Montana Dental Hygienists' Association
March 8, 2005

Senate Business, Labor and Economic Affairs

1. Page 24, line 11
   Following: "~~written~~"
   Reinsert: "WRITTEN"

2. Page 24, line 12
   Following: "~~practical~~"
   Reinsert: "PRACTICAL"

- END -

BUSINESS & LABOR
EXHIBIT NO. 2
DATE 3/8/05
BILL NO.

Montana Dental Hygienists' Association

Testimony in support of HB 182

The Montana Dental Hygienists' Association supports HB182, but requests an amendment as follows:

On page 24, lines 11 and 12, the stricken words "written" and "practical" be re-inserted.

Because the national board is currently a written board, and the regional boards are practical examinations, it is understandable that there appears to be no need to retain the descriptive word of type of exam. Although striking the words would reflect the current practice, it may not be true of future examination needs and availability.

While MDHA applauds the effort to standardize professional licensure application, we believe that each profession is unique and certain precautions should be in place for public safety. Currently, the statute addresses the need for a clinical and written examination for dental hygiene licensure.

MDHA supports re-inserting the words "written" and "practical" to maintain the integrity of the dual component examinations for dental hygiene licensure.

Thank you for consideration of this issue.

Respectfully submitted,

Kathy Ullman, MDHA President

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

BUSINESS AND LABOR

DATE 3/8/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. VICKI COCCHIARELLA (D), CHAIRWOMAN	X		
SEN. JOE TROPILA (D), VICE CHAIRMAN	X		
SEN. JOE BALYEAT (R)	X		
SEN. DUANE GRIMES (R)	X		
SEN. DAVE LEWIS (R)	X		
SEN. GLENN ROUSH (D)	X		
SEN. FRANK SMITH (D)	X		
SEN. CAROLYN SQUIRES (D)	X		
SEN. DONALD STEINBEISSER (R)	X		
SEN. BILL TASH (R)	X		
SEN. JON TESTER (D)			X
PAT MURDO, LSD	X		
ANNIE GLOVER, COMMITTEE SECRETARY	X		

SENATE STANDING COMMITTEE REPORT

March 8, 2005

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that **House Bill 160** (third reading copy -- blue) **be concurred in.**

Signed: _____
Senator Vicki Cocchiarella, Chair

To be carried by Senator Joseph (Joe) Tropila

- END -

Committee Vote:
Yes 7, No 0.

511054SC.ssc

SENATE STANDING COMMITTEE REPORT

March 8, 2005

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that **House Bill 203** (third reading copy -- blue) **be concurred in**.

Signed: _____
Senator Vicki Cocchiarella, Chair

To be carried by Senator Jim Shockley

- END -

Committee Vote:
Yes 7, No 0.

511057SC.ssc

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that **House Bill 188** (third reading copy -- blue) **be concurred in as amended.**

Signed: Vicki Cocchiarella
Senator Vicki Cocchiarella, Chair

To be carried by Senator Glenn Roush

And, that such amendments read:

1. Title, page 1, line 8.
Following: "PROVISIONS;"
Insert: "EXPANDING REINSURANCE OPTIONS FOR FARM MUTUAL INSURERS;"

2. Title, page 1, line 30.
Following: "33-4-101,"
Insert: "33-4-503,"

3. Title, page 2, line 5.
Strike: "AN APPLICABILITY DATE"
Insert: "EFFECTIVE DATES AND APPLICABILITY DATES"

4. Page 5, line 19.
Strike: "company"
Insert: "insurer"
Strike: "plans"
Insert: "policies"

5. Page 5, line 23.
Strike: "or"

Committee Vote:
Yes 7, No 0.

6. Page 5, line 24.
Strike: "[the effective date of this act]"
Insert: "January 1, 2005, and before January 1, 2009, at the election of the insurer for any one or more specified policies of life insurance"

7. Page 5.
Following: line 25
Insert: "(iv) for policies issued on or after January 1, 2009, the 2001 commissioners standard ordinary mortality table; or"

8. Page 9.
Following: line 26
Insert: **"Section 8.** Section 33-4-503, MCA, is amended to read:
"33-4-503. Reinsurance. A farm mutual insurer may cede reinsurance to any other farm mutual insurer or insurers and to other authorized property insurers and reinsurers meeting the requirements of 33-2-1216(3) and may accept reinsurance from other farm mutual insurers.""
Renumber: subsequent sections

9. Page 47.
Following: line 20
Insert: "NEW SECTION. **Section 41. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2005.
(2) [Sections 4, 42, and 43 and this section] are effective on passage and approval.
(3) [Section 22] is effective July 1, 2005."
Insert: "NEW SECTION. **Section 42. Retroactive applicability.** [Section 4] applies retroactively, within the meaning of 1-2-109, to January 1, 2005."
Renumber: subsequent section

10. Page 47, line 22.
Strike: "17"
Insert: "18"

- END -

MONTANA STATE SENATE
2005 LEGISLATURE

VISITOR REGISTER

BUSINESS AND LABOR

DATE_____ **BILLS BEING HEARD TODAY** ~~HB~~ ~~182~~ HB 203

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE	
MARY L WANGEN	443-1160	Mt Dental Hygienists Assoc	HB 182	✓		
Jim Brown	841-2042	DLI	HB 160 HB 182 HB 203	✓		
Jane Egan	442-7301	MSCPA	HB 203	✓		
Keith Allen	459 4500	IBEW	HB 182	X		
Jim Smith		Pharmacy Assn	HB 182 203	✓		
Mary McCue	443-2061	MT Dental Assn	HB 182, 203	✓		
Gene Schwartz	431-2776	Plumbers Association	HB 182	✓		
[illegible]	723-8491	MT State Bldg Trades	182	✓		
Rose Hughes		Mt. Health Care Assn	182	✓		
[illegible]	447-5581	PT Association	182 203	✓		
[illegible]	442-7911	MHA	182 203	✓		
Gloria Hermanson	449-2334	MHO	HB 203	✓		
Pat Melby	442-7450	MT Med Ass'n	HB 203	✓		
Holly Franz	442-0005	MT Society of CPAs	HB 203	✓		
Don Hargrove	920 2426	MASW	HB 203	X		info
JEANNIE MORSETH	841-2360	BOARD OF MEDICAL EX.	HB 203/182	✓		X
Gene Van Horsen	442-9230	State Fund	HB 160	X		
Jill Caldwell	841-2302	DLI	HB 182/203			X
Lisa Addington	841-2303	DLI	HB 182/203			

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on March 10, 2005 at 9:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:
Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Duane Grimes (R)
Sen. Dave Lewis (R)
Sen. Glenn Roush (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 207, 3/10/2005; HB 567, 3/10/2005
Executive Action:	HB 182, HB 207, HB 156

00:00:00

HEARING ON HB 207

Opening Statement by Sponsor:

REP. JOE MCKENNEY (R), HD 18, opened the hearing on **HB 207,** Revise definition of security for estate purposes.

Proponents' Testimony:

00:02:28 **Mr. Neil Severinson, Trust Officer, Wells Fargo Bank, Montana Bankers Association**
00:04:36 **Mr. Keith Colbo, Montana Independent Bankers**

Opponents' Testimony: None.

Informational Testimony: None..

00:05:08
Questions from Committee Members and Responses:

00:08:09
Closing by Sponsor:

SEN. STEINBEISSER will carry HB 207 on the Senate Floor.

00:09:22

HEARING ON HB 567

Opening Statement by Sponsor:

REP. JEANNE WINDHAM (D), HD 12, opened the hearing on **HB 567,** Allow unemployment benefit for quitting due to sexual offense or stalking.

EXHIBIT(bus53a01)

Proponents' Testimony:

00:12:23 **Tootie Welker, Director, Sanders County domestic violence/sexual program**

EXHIBIT(bus53a02)
EXHIBIT(bus53a03)

00:16:20 **Ms. Kayla Bauman, Student, Reading a Victim's Letter**

EXHIBIT(bus53a04)

00:18:43 **Ms. Terry Kendrick, Montana Coalition Against Domestic and Sexual Violence, YWCA of Missoula**

Opponents' Testimony:

Informational Testimony:

00:19:18 **Mr. Roy Mulvaney, Unemployment Insurance Administrator, Department of Labor and Industry**

00:19:50
Questions from Committee Members and Responses:

Ms. Shirley Rush, Bureau Chief, Claims Processing Bureau, Department of Labor and Industry

00:55:17
Closing by Sponsor:

00:58:34

EXECUTIVE ACTION ON HB 182

Motion: SEN. BALYEAT moved that HB 182 BE CONCURRED IN.

Motion: SEN. COCCHIARELLA moved that HB 182 BE AMENDED WITH HB018203.APM.

Discussion:

EXHIBIT(bus53a05)
EXHIBIT(bus53a06)

REP. EVE FRANKLIN, HD 24, GREAT FALLS
Ms. Lisa Addington, Bureau Chief, Healthcare Licensing, Department of Labor and Industry
Mr. Mark Cadwallader, Staff Attorney, Department of Labor and Indstry

Vote: Motion carried 6-4 by roll call vote with SEN. GRIMES, SEN. SMITH, SEN. STEINBEISSER, and SEN. TASH voting no.

Motion: SEN. TROPILA moved that HB 182 BE AMENDED WITH HB018201.APM.

Discussion:

EXHIBIT(bus53a07)

Mr. Jim Brown, Administrator, Business Standards Division, Department of Labor and Industry
Ms. Marti Wangen, Montana Dental Hygienists Association

SEN. TROPILA withdrew his motion.

Motion: SEN. TROPILA moved that HB 182 BE AMENDED WITH HB018201.APM.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. BALYEAT moved that HB 182 BE AMENDED WITH HB018204.APM.

Discussion:

EXHIBIT(bus53a08)

Substitute Motion/Vote: SEN. BALYEAT made a substitute motion that HB 182 BE AMENDED. Substitute motion carried unanimously by voice vote.

Motion/Vote: SEN. BALYEAT moved that HB 182 BE CONCURRED IN AS AMENDED. Motion carried unanimously by voice vote.

01:57:17

EXECUTIVE ACTION ON HB 207

Motion: SEN. TROPILA moved that HB 207 BE CONCURRED IN. Motion carried unanimously by voice vote.

01:58:51

EXECUTIVE ACTION ON HB 156

Motion: SEN. GRIMES moved that HB 156 BE CONCURRED IN.

Discussion:

Ms. Alicia Pichette, State Auditor's Office
Ms. Jennifer Massman, Staff Attorney, State Auditor's Office

SEN. GRIMES withdrew his motion.

ADJOURNMENT

Adjournment: 11:26 A.M.

_____
SEN. VICKI COCCHIARELLA, Chairman

_____
ANNIE GLOVER, Secretary

VC/ag

Additional Exhibits:

EXHIBIT(bus53aad0.PDF)

Amendments to House Bill No. 182
3rd Reading Copy

Requested by Senator Vicki Cocchiarella

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
March 10, 2005 (8:41am)

1. Title, page 1, line 25.
Following: "37-8-202,"
Insert: "37-8-204,"

2. Page 31.
Following: line 15
Insert: **"Section 44.** Section 37-8-204, MCA, is amended to read:

"37-8-204. Executive director. (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:

~~(1)~~ (a) prescribing curricula and standards for nursing schools and making surveys of and approving schools and courses;

~~(2)~~ (b) evaluating and approving courses for affiliation of student nurses; and

~~(3)~~ (c) reviewing qualifications of applicants for licensure.

(2) The department shall hire as the executive director an individual who:

(a) is a graduate of an approved school of nursing and who has at least a master's degree with postgraduate courses in nursing;

(b) is licensed as a registered professional nurse in Montana; and

(c) has experience in teaching or administration in an approved school of nursing and who has completed at least 3 years in the clinical practice of nursing."

{*Internal References to 37-8-204: None.*}"

- END -

BUSINESS & LABOR
EXHIBIT NO. 6
DATE 3/10/05
BILL NO. HB182

Amendments to House Bill No. 182
3rd Reading Copy

Requested by Senator Vicki Cocchiarella

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
March 10, 2005 (8:40am)

1. Page 6, line 17.
Following: "POSITIONS."
Insert: "An individual hired for a board executive or executive director position must meet qualifications determined by the board by rule."

- END -

BUSINESS & LABOR 7
EXHIBIT NO. 7
DATE 3/10/05
BILL NO. HB 182

Amendments to House Bill No. 182
3rd Reading Copy

Requested by Senator Joseph (Joe) Tropila

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
March 8, 2005 (1:08pm)

1. Page 24, line 11.
Following: "~~written~~"
Insert: "written"

2. Page 24, line 12.
Following: "~~practical~~"
Insert: "practical"

- END -

BUSINESS & LABOR 8
EXHIBIT NO. 8
DATE 3/10/05
BILL NO. HB182

Amendments to House Bill No. 182
3rd Reading Copy

Requested by Senator Joe Balyeat

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
March 10, 2005 (8:41am)

1. Page 79, lines 29 through 30.
Strike: "in the field" on line 29 through "board" on line 30

- END -

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

BUSINESS AND LABOR

DATE 3/10/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. VICKI COCCHIARELLA (D), CHAIRWOMAN	X		
SEN. JOE TROPILA (D), VICE CHAIRMAN	X		
SEN. JOE BALYEAT (R)	X		
SEN. DUANE GRIMES (R)	X		
SEN. DAVE LEWIS (R)	X		
SEN. GLENN ROUSH (D)	X		
SEN. FRANK SMITH (D)	X		
SEN. CAROLYN SQUIRES (D)	X		
SEN. DONALD STEINBEISSER (R)	X		
SEN. BILL TASH (R)	X		
SEN. JON TESTER (D)			X
PAT MURDO, LSD	X		
ANNIE GLOVER, COMMITTEE SECRETARY	X		

MONTANA STATE SENATE
2005 LEGISLATURE

ROLL CALL VOTE

BUSINESS AND LABOR

DATE 3/10/05 **BILL NO.** HB 182 **NUMBER** _____

MOTION be amended w/ HB018203.apm

NAME	AYE	NO
SEN. VICKI COCCHIARELLA (D), CHAIRWOMAN	X	
SEN. JOE TROPILA (D), VICE CHAIRMAN	X	
SEN. JOE BALYEAT (R)	X	
SEN. DUANE GRIMES (R)		X
SEN. DAVE LEWIS (R)	X	
SEN. GLENN ROUSH (D)	X	
SEN. FRANK SMITH (D)		X
SEN. CAROLYN SQUIRES (D)	X	
SEN. DONALD STEINBEISSER (R)		X
SEN. BILL TASH (R)		X
SEN. JON TESTER (D)	—	—

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that **House Bill 182** (third reading copy -- blue) **be concurred in as amended.**

Signed: Vicki Cocchiarella
Senator Vicki Cocchiarella, Chair

To be carried by Senator Jim Shockley

And, that such amendments read:

1. Title, page 1, line 25.
Following: "37-8-202,"
Insert: "37-8-204,"

2. Page 24, line 11.
Following: "~~written~~"
Insert: "written"

3. Page 24, line 12.
Following: "~~practical~~"
Insert: "practical"

4. Page 31.
Following: line 15
Insert: **"Section 44.** Section 37-8-204, MCA, is amended to read:
"37-8-204. Executive director. (1) The department shall hire an executive director to provide services to the board in connection with the board's duties of:
~~(1)~~(a) prescribing curricula and standards for nursing schools and making surveys of and approving schools and courses;
~~(2)~~(b) evaluating and approving courses for affiliation of student nurses; and
~~(3)~~(c) reviewing qualifications of applicants for

Committee Vote:
Yes 11, No 0.

licensure.

(2) The department shall hire as the executive director an individual who:

(a) is a graduate of an approved school of nursing and who has at least a master's degree with postgraduate courses in nursing;

(b) is licensed as a registered professional nurse in Montana; and

(c) has experience in teaching or administration in an approved school of nursing and who has completed at least 3 years in the clinical practice of nursing."

"

5. Page 79, lines 29 through 30.
Strike: "of a" on line 29 through "board" on line 30

- END -

SENATE STANDING COMMITTEE REPORT

March 10, 2005

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that **House Bill 207** (third reading copy -- blue) **be concurred in**.

Signed: _____
Senator Vicki Cocchiarella, Chair

To be carried by Senator Donald Steinbeisser

- END -

Committee Vote:
Yes 11, No 0.

531153SC.sjo

MONTANA STATE SENATE
2005 LEGISLATURE

VISITOR REGISTER

BUSINESS AND LABOR

DATE 3/10/05 **BILLS BEING HEARD TODAY** HB567, HB207

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Tootie Walker	827-3218	Self	HB567	✓	
Kayla Bauman	374-2375	Self	HB567	✓	
Wesley Heffer	538-9837	self	HB567	✓	
Rachel Bauman	374-2375	Self	HB567	✓	
Karen Simpson	374-2780	Self	HB567	✓	
Roy McElvaney	444-2749	LABOR & INDUSTRY UI DIV.	HB567	INFORMATION	
Pat Morris	374-2488	Self	HB567	✓	
Dan Kelly	938-2721	Rachel	HB567		
Jessica Metcalf	350-0795	Self	HB567	✓	
Neil M. Severinson	447-2066	Montana Bankers Assn	HB207	✓	
Blake Krug	350-0206	Self	HB567	✓	
Mikel Cole	374-2380	self	HB567	✓	
~~[illegible]~~	~~[illegible]~~		207	✓	
Keith Colbo	443-1573	MIB	207	✓	
Jessica Grennan	360-0043	ASUM	567	✓	
[illegible]	459-9440	MT Coalition Against DSV	567	✓	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY